TITLE 49—TRANSPORTATION

This title was enacted by Pub. L. 95–473, § 1, Oct. 17, 1978, 92 Stat. 1337; Pub. L. 97–449, § 1, Jan. 12, 1983, 96 Stat. 2413; and Pub. L. 103–272, July 5, 1994, 108 Stat. 745

Subtitle		Sec.
I.	**DEPARTMENT OF TRANSPORTATION**	**101**
II.	**OTHER GOVERNMENT AGENCIES**	**1101**
III.	**GENERAL AND INTERMODAL PROGRAMS**	**5101**
IV.	**INTERSTATE TRANSPORTATION**	**10101**
V.	**RAIL PROGRAMS**	**20101**
VI.	**MOTOR VEHICLE AND DRIVER PROGRAMS**	**30101**
VII.	**AVIATION PROGRAMS**	**40101**
VIII.	**PIPELINES**	**60101**
IX.	**COMMERCIAL SPACE TRANSPORTATION**	**70101**
X.	**MISCELLANEOUS**	**80101**

AMENDMENTS

1995—Pub. L. 104–88, title I, § 102(b), Dec. 29, 1995, 109 Stat. 852, as amended by Pub. L. 104–287, § 6(f)(1), Oct. 11, 1996, 110 Stat. 3399, substituted ''TRANSPORTATION'' for ''COMMERCE'' in item for subtitle IV.

1994—Pub. L. 103–272, § 1(b), July 5, 1994, 108 Stat. 745, amended subtitle analysis generally, substituting ''OTHER GOVERNMENT AGENCIES . . .1101'' for ''TRANSPORTATION PROGRAMS . . .3101'' in item for subtitle II, ''GENERAL AND INTERMODAL PROGRAMS . . .5101'' for ''[RESERVED—AIR TRANSPORTATION]'' in item for subtitle III, and ''RAIL PROGRAMS . . .20101'' for ''[RESERVED—MISCELLANEOUS]'' in item for subtitle V, and adding items for subtitles VI, VII, VIII, IX, and X.

1983—Pub. L. 97–449, § 1(b), Jan. 12, 1983, 96 Stat. 2413, amended subtitle analysis generally, substituting ''DEPARTMENT OF TRANSPORTATION . . .101'' for ''[RESERVED—DEPARTMENT OF TRANSPORTATION]'' in item for subtitle I and ''TRANSPORTATION PROGRAMS . . .3101'' for ''[RESERVED—TRANSPORTATION PROGRAMS]'' in item for subtitle II.

TABLE SHOWING DISPOSITION OF FORMER SECTIONS OF TITLE 49

Title 49 Former Sections	*Title 49 New Sections*
1(1), (2)	10501
1(3)	10102
1(4) (related to standards)	10701
1(4) (2d sentence last cl.)	10702
1(4) (1st sentence related to through routes and 2d sentence less last cl.).	10703
1(4) (1st sentence 14th–23d words).	11101
1(5)(a)	10701
1(5)(b) (7th and 8th sentences)	10709
1(5)(b) (less 7th and 8th sentences).	10701
1(5)(c)(i)	10709
1(5)(c)(ii)	10102
1(5)(d)	Rep.
1(5½)	10749
1(6) (last sentence)	10750
1(6) (less last sentence)	10702 (See also 10701(a))
1(7) (1st sentence, 32 words before 8th semicolon-9th semicolon).	10721
1(7) (1st sentence words before 2d semicolon, words between 5th semicolon and 21st word after 7th semicolon, 1st–18th words after 9th semicolon, 1st proviso (words before semicolon), 2d, and 3d provisos).	10722
1(7) (1st sentence 1st–4th and 13th–20th words after 2d semicolon and words between 3d and 5th semicolons).	10723
1(7) (1st sentence 5th–12th and 21st–29th words after 2d semicolon and last 11 words before 1st proviso).	10723
1(7) (1st sentence 1st proviso, words between semicolon and colon).	10724
1(7) (less 1st sentence)	11905
1(8)	10746
1(9)	11104
1(10)	10102
1(11)	11121
1(12) (3d sentence)	11902
1(12) (less 3d sentence)	11126
1(13)	11121
1(14)(a)	11122
1(14)(b)	11121
1(14)(c)	11105
1(15) (related to car service less last sentence).	11123
1(15) (last sentence)	11128
1(15) (related to service less last sentence).	11127
1(16) (related to traffic less (b))	11124
1(16) (related to service less (b)).	11127
1(16)(b)	11125
1(17)(a) (1st sentence)	11121
1(17)(a) (last sentence less proviso).	11901
1(17)(a) (last sentence proviso)	10501
1(17)(b)	11907
1(18)(a), (b)	10901
1(18)(c)	10902
1(18)(d)	10907
1(18)(e) (related to action by the Attorney General).	11703
1(18)(e) (related to Commission action).	11702
1(18)(e)	11901
1(18)(e) (related to State enforcement).	11505
1(19)–(22)	Rep.
1 note	10711
1a(1) (1st sentence)	10903
1a(1) (less 1st and last sentences).	10904
1a(1) (last sentence)	10907
1a(2), (3)	10904
1a(4)	10903
1a(5)	10904
1a(6), (7)	10905
1a(8)	Rep.
1a(9) (related to Commission action).	11702
1a(9) (related to action by the Attorney General).	11703
1a(9) (last sentence)	11901
1a(9) (related to State enforcement).	11505
1a(10)	10906
1a(11)	10905
2	10741
3(1)	10741
3(1a)	Rep.

TABLE SHOWING DISPOSITION OF FORMER SECTIONS OF TITLE 49—Continued

Title 49 Former Sections	*Title 49 New Sections*
3(2) (1st sentence)	10743
3(2) (less 1st sentence)	10744
3(3)	10744
3(4) (1st sentence 2d cl., 2d sentence related to standards).	10701
3(4) (less 1st sentence 2d cl., and 2d sentence related to facilities).	10742
3(5)	11103
4	10726
5(1) (words between semicolon and 1st colon).	11914
5(1) (less words between semicolon and 1st colon).	11342
5(2)(a)	11343
5(2)(b)–(e)	11344
5(2)(f)	11347
5(2)(g), (h)	11345
5(3)(a)–(e)	11346
5(3)(f) (last sentence)	11346
5(3)(f) (less last sentence)	11350
5(3)(g)	11346
5(4)	11348
5(5)–(7)	11343
5(8) (last sentence)	11912
5(8) (less last sentence)	11701
5(9)	11702
5(10)	11351
5(11)	11343
5(12)	11341
5(13)	Rep.
5(14)	11343
5(15) (words after semicolon)	11914
5(15) (less words after semicolon).	11321
5(16), (17)	11321
5a	Rep.
5b, 5c	10706
6(1)	10762
6(2)	10765
6(3), (4)	10762
6(5)	10764
6(6)	10762
6(7)	10761
6(8)	11128
6(9)	10762
6(10)	11901
6(11)	10503
6(12)	10765
7	10745
8, 9	11705
10(1)	11914
10(2)–(4)	11904
11	10301
12(1)(a) (less 2d sentence words after semicolon and last sentence words after 1st semicolon and before last semicolon).	10321
12(1)(a) (words after semicolon in 2d sentence).	10311
12(1)(a) (last sentence less words before 1st semicolon and after last semicolon).	11703
12(1)(b)	10505
12(2)–(7)	10321
13(1)	11701
13(2) (last sentence)	11502
13(2) (less last sentence)	11701
13(3)	11502
13(4), (5)	11501
13(6)	10326
13a(1)	10908
13a(2)	10909
14(1), (2)	10310
14(3) (last sentence)	10311
14(3) (less last sentence)	10310
15(1)	10704
15(2)	10324
15(3), (4)	10705
15(5)	10748
15(6)	10705
15(7)	10708
15(8)	10707
15(9)	10709
15(10)	10763
15(11)	11710
15(12)	10763
15(13), (14)	11910
15(15)	10747
15(16)	10321
15(17)	10727
15(18)	10728
15(19)	10729
15a(1)–(5)	10704
15a(6), 15b	Rep.
16(1), (2)	11705
16(3)(c), (g)	11705
16(3)(h)	Rep.

TABLE SHOWING DISPOSITION OF FORMER SECTIONS OF TITLE 49—Continued

Title 49 Former Sections	*Title 49 New Sections*
16(3) (less (c), (g), and (h))	11706
16(4)	11705
16(5)	10329
16(6)	10324
16(7)	11914
16(8)–(10)	11901
16(11)	10301
16(12) (related to Commission action).	11702
16(12) (related to action by the Attorney General).	11703
16(12) (related to action by private person).	11705
16(12) (enforcement of money award).	11705
16(13)	10303
16a	Rep.
17(1)	10302
17(2) (1st sentence 80th–98th words and 2d sentence).	10304
17(2) (less 80th–90th words in 1st sentence, less 2d sentence).	10305
17(3) (less 2d sentence and last 42 words of 3d sentence).	10306
17(3) (2d sentence)	10301
17(3) (last 42 words of 3d sentence).	10321
17(4) (1st and 3d sentences)	10305
17(4) (2d sentence)	10303
17(5)	10322
17(6), (7)	10323
17(8)	10324
17(9)(j)	10310
17(9) (less (j))	10327
17(10)	10325
17(11)	10305, 10306
17(12)	10328
17(13)	10308
17(14)(a)	11701
17(14)(b)	Rep.
17(15)	10309
17 note	10306
18(1) (1st and 3d sentences)	10301
18(1) (2d sentence)	10303
18(1) (4th sentence)	10307
18(1) (last sentence)	10321
18(2)	10301
19	10307
19a(a) (1st and last sentences)	10781
19a(a) (2d and 3d sentences)	10301
19a(b)	10782
19a(c)	10781
19a(d)	Rep.
19a(e)	10783
19a(f), (g)	10784
19a(h)–(j)	10785
19a(k) (1st sentence)	10786
19a(k) (less 1st sentence)	11901
19a(*l*)	11703
20(1), (2)	11145
20(3) (less (e))	11142
20(3)(e)	Rep.
20(4)	11143
20(5)	11144
20(6) (2d sentence, 1st cl.)	11144
20(6) (2d sentence, 2d cl.)	11145
20(6) (less 2d sentence)	11144
20(7)(a)	11901
20(7)(b) (proviso)	11144
20(7)(b) (less proviso)	11909
20(7)(c)–(e)	11901
20(7)(f)	11910
20(8)	11141
20(9)	11703
20(10)	10301
20(11) (2d sentence, 1st proviso)	10103
20(11) (less 1st sentence 2d proviso related to released value, 2d sentence less words before 2d proviso).	11707
20(11) (1st sentence 2d proviso related to released value), 2d sentence (less 1st–5th provisos).	10730
20(12)	11707
20a(1)–(10)	11301
20a(11) (2d and 3d sentences)	11709
20a(11) (less 2d, 3d, and 4th sentences).	11301
20a(11) (last sentence)	11911
20a(12) (last sentence)	11911
20a(12) (less last sentence)	11322
20b(1)	11361
20b(2) (1st–3d sentences, 4th sentence less words between 8th comma and period, 9th sentence).	11362

TABLE SHOWING DISPOSITION OF FORMER SECTIONS OF TITLE 49—Continued

Title 49 Former Sections	*Title 49 New Sections*
20b(2) (4th sentence, words between 8th comma and period, 8th comma and period, 8th sentence).	11363
20b(2) (5th and 7th sentences)	11364
20b(2) (less 1st–9th sentences)	11365
20b(3) (1st and last sentences)	11362
20b(3) (less 1st and last sentences).	11363
20b(4)	11365
20b(5)	11361
20b(6)	11366
20b(7)	Rep.
20b(8)	11362
20b(9)	11367
20b(10)	10321
20b(11)	11367
20b(12)	Rep.
20b(13)	11361
20c	11303
21	10311
22(1) (1st sentence 1st 26th and 62d–76th words).	10721
22(1) (1st sentence 77th–86th words and 2d proviso, 2d–4th sentences).	10722
22(1) (1st sentence words between 2d and 4th semicolons).	10722
22(1) (1st sentence words between 4th and 5th semicolons).	10722
22(1) (1st sentence 27th–61st words and words between 1st and 2d semicolons).	10723
22(1) (1st sentence words between 6th semicolon and 1st proviso).	10723
22(1) (last 2 sentences)	10724
22(1) (1st sentence words between 5th and 6th semicolons).	10103
22(1) (1st proviso 1st sentence)	Rep.
22(2) (less 1st sentence proviso)	10721
22(2) (1st sentence proviso)	Rep.
23	11703
25	Rep.
26(a)	20102
26(b)	20502
26(c)	20503
26(d)	20504
26(e)	20502
26(f) (words before last semicolon).	20505
26(f) (words after last semicolon).	20902
26(g)	501
26(h) (1st sentence words before last comma).	21302
26(h) (1st sentence words after last comma).	21304
26(h) (2d, 3d sentences, 4th sentence words before last comma).	21302
26(h) (4th sentence words after last comma, 5th sentence).	21304
26(h) (last sentence)	21302
26a	11504
26b	10381–10388
26c	11503
27	Rep.
41(1) (1st sentence)	11915
41(1) (less 1st sentence)	11903
41(2) (related to corporate violations).	11903
41(2) (related to corporate violations).	11915
41(2) (last sentence)	11916
41(3)	11902
42	Rep.
43	11703
44, 45	T. 15 §§ 28, 29
46	11913
47, 48	Rep.
49	Elim.
50 (related to notice)	10329
50 (related to process)	10330
51 (related to ownership)	11321
51 (related to 49:6(11))	10503
52	10783
53	Elim.
54–59	Rep.
60	11507
61–64	Rep.
65, 65a	10721
66	T. 31 § 3726
67	Elim.
71–79	Rep.
80	T. 40 § 316
81	80102

TABLE SHOWING DISPOSITION OF FORMER SECTIONS OF TITLE 49—Continued

Title 49 Former Sections	*Title 49 New Sections*
82, 83	80103
84, 85	80112
86, 87	80103
88, 89	80110
90–92	80111
93	80108
94	80114
95	80107
96–99	80110
100–102	80113
103	80115
104	Rep.
105	80109
106	80111
107, 108	80104
109 (1st sentence)	80106
109 (last sentence)	80103
110	80104
111	80105
112, 113	80106
114–116	80107
117, 118	80104
119, 120	80105
121	80116
122	80101
123, 124	Rep.
141	Rep.
142	303a
143	Rep.
151–157	Rep.
171–173a, 174–184	Rep.
201	Rep.
211–213	T. 43 §§ 1441–1443
214	Rep.
231	Rep.
241–246	T. 50 §§ 151–154, 156, 157
250–268	Rep.
301	Rep.
302(a), (b)(1)	10521
302(b) (less (1))	11506
302(c)	10523
303(a)(1)	10102
303(a)(2)	10342
303(a)(3)	Rep.
303(a)(4)	10341
303(a)(5)–(7)	Rep.
303(a)(8), (9)	10102
303(a)(10) (proviso)	10522
303(a)(10) (less proviso)	10521
303(a)(11)	10521, 10927
303(a)(12), (13)	10102
303(a)(14) (words before 2d comma).	10102
303(a)(14) (words after 2d comma).	10502
303(a)(15)–(19)	10102
303(a)(20), (21)	Rep.
303(a)(22), (23)	31501
303(b)	10526
303(c) (words between 6th and 7th commas).	10521
303(c) (words before ''nor'', less words between 6th and 7th commas).	10921
303(c) (less words before ''nor'')	10524
304(a) (matter preceding (1))	10321
304(a)(1) (related to service)	11101
304(a)(1) (related to accounts)	11142
304(a)(1)–(2) (related to qualifications, hours of service, and safety).	31502
304(a)(2) (less ''qualifications'' through period).	11142
304(a)(3) (1st sentence)	31502
304(a)(3) (last sentence) (related to ''Secs. 304(c), 305, 320, 321, 322(a), (b), (d), (f), (g)'').	502–507, 522, 523, 525, 526
304(a)(3) (last sentence) (related to ''Sec. 305(d) (related to liability)'').	525
304(a)(3) (last sentence) (related to ''Sec. 324'').	31504
304(a)(3a) (last sentence) (related to ''Secs. 304(c), 305, 320, 321, 322(a), (b), (d), (f), (g)'').	502–507, 522, 523, 525, 526
304(a)(3a) (1st sentence)	31502
304(a)(3a) (last sentence) (related to ''Sec. 305(d) (related to liability)'').	525
304(a)(3a) (last sentence) (related to ''Sec. 324'').	31504
304(a)(4)	11142
304(a)(4a)	10525
304(a)(5)	31503
304(a)(6)	10321
304(a)(7) (words after semicolon).	10311
304(a)(7) (less words after semicolon).	10321

TABLE SHOWING DISPOSITION OF FORMER SECTIONS OF TITLE 49—Continued

Title 49 Former Sections	*Title 49 New Sections*
304(b)	11102
304(c)	11701
304(d) (related to administration matters).	10303
304(d) (related to reports)	10310
304(d)	10311
304(e)	11107
304(f)	11101
304a(1)–(4)	11706
304a(5), (6)	11705
304a(7)	Rep.
304a(8)	11706
305(a) (1st and 2d sentences)	10341
305(a) (3d sentence less proviso)	10342
305(a) (3d sentence proviso)	10344
305(a) (less 1st–3d sentences)	10343
305(b) (2d sentence, 1st 12 words).	10344
305(b) (1st, 3d, 5th, and 12th sentences).	10342
305(b) (2d sentence 13th–37th words).	10341
305(b) (4th and 6th sentences)	10342
305(b) (7th–9th sentences)	10343
305(b) (10th sentence)	10342
305(b) (11th sentence)	10344
305(b) (less 1st–12th sentences)	10342
305(c) (related to the Commission).	10307
305(c) (related to joint boards)	10344
305(d) (related to Commission and employee board subpena power).	10321
305(d) (related to joint boards)	10344
305(d) (related to liability)	11913
305(e)	10328
305(f) (4th sentence)	10344
305(f) (less 4th sentence)	11502
305(g) (proviso)	Rep.
305(g) (less proviso)	11705, 11706
305(h)	10301–10306, 10308, 10309, 10321–10325, 10328
305(i) (related to members of Commission).	10301
305(i) (related to joint board)	10344
305(i) (related to examiner)	10306
305(j)	10301
305a	10344 note
306(a)(1) (word before proviso)	10921
306(a)(1) (words after colon)	Rep.
306(a)(2)	10932
306(a)(3)–(5)	Rep.
306(a)(6)	10931
306(a)(7)	10932
306(b), 307	10922
308(a), (b)	10922
308(c), (d)	10932
309(a)(1) (words before 1st proviso).	10921
309(a)(1) (words between 1st and last colons).	Rep.
309(a)(1) (last proviso)	10526
309(a)(2)	10932
309(a)(3)–(5)	Rep.
309(b) (last proviso)	10932
309(b) (less last proviso)	10923
310	10930
310a(a)	10928
310a(b)	11349
310a(c)	10928
310a(c)	11349
311(a) (words before 1st proviso).	10921
311(a) (words after 1st colon)	10924
311(b), (c) (words before 2d comma).	10924
311(c) (words after 2d comma)	10927
311(d)	11144
312(a)	10925
312(b)	10926
312(c)	Rep.
313	11304
314 (related to securities)	11302
314 (related to penalties)	11911
315	10927
316 (related to standards)	10701
316(a) (1st–24th, 45th–59th words).	10703
316(a) (60th–143d words)	10702
316(a) (25th–44th words)	11101
316(b) (related to standards)	10701
316(b) (16th–33d words)	11101
316(b) (less 16th–33d words)	10702
316(c) (less 2d sentence)	10703
316(c) (2d sentence)	10702
316(d) (1st sentence)	10701
316(d) (less 1st sentence)	10741
316(e) (2d sentence 2d cl.)	10705
316(e) (2d sentence less 2d cl. and less proviso).	10704

TABLE SHOWING DISPOSITION OF FORMER SECTIONS OF TITLE 49—Continued

Title 49 Former Sections	*Title 49 New Sections*
316(e) (proviso)	10521
316(e) (less 2d sentence)	11701
316(f)	10705
316(g) (less proviso)	10708
316(g) (proviso)	Rep.
316(h)	10701
316(i)	10704
316(j)	10103
317(a)	10762
317(b) (proviso)	10103, 10721–10724
317(b) (less proviso)	10761
317(c)	10762
317(d)	10761
318(a) (1st sentence related to standards).	10701
318(a) (1st and 4th sentences, and 7th sentence proviso related to relief).	10702
318(a) (2d, 5th, and 6th sentences, and 7th sentence proviso related to general requirements).	10762
318(a) (3d sentence, 7th sentence less proviso, and 7th sentence proviso related to relief).	10761
318(b)	10704
318(c) (proviso)	Rep.
318(c) (less proviso)	10708
319	10730, 11707
320(a) (1st and 2d sentences)	11145
320(a) (less 1st and 2d sentences).	10764
320(b)	11145
320(c)	11143
320(d)	11144
320(e)	11141
320(f)	504
320(g)	11144
321(a)	10329
321(b)	10324
321(c)	10330
321(d) (related to orders)	10324
321(d) (related to notice)	10329
321(d) (related to process)	10330
322(a)	11914
322(b)(1)	11702
322(b) (less (1))	11708
322(c) (related to rate violations).	11904
322(c) (related to evasion of regulation).	11906
322(d)–(f)	11910
322(g)	11909
322(h)	11901
323 (1st sentence)	10743
323 (less 1st sentence)	10744
324	11106
324a	10747
325	31503
325a	11504
326, 327	Rep.
401–403	Rep.
421–422a	Rep.
422b	Elim.
423–427	Rep.
451–460	Rep.
461	Elim.
481–496	Rep.
521–524	Rep.
551–560	Rep.
581, 582	Rep.
601–603	Rep.
621–623	Rep.
641–649	Rep.
671–685	Rep.
701–705	Rep.
711–722	Rep.
751–758	Rep.
781	80302
782	80303
783 (1st sentence)	80304
783 (last sentence)	80303
784 (proviso)	80304
784 (less proviso)	80306
785	80305
786	80306
787(a)–(c)	80301
787(d)–(g)	80302
788, 789	80304
901	Rep.
902(a)	10102
902(b)	Rep.
902(c), (d) (less exception)	10102
902(d) (words after 1st comma)	10502
902(e) (1st and 2d sentences)	10102
902(e) (3d–5th sentences)	10544
902(f)–(h)	10102
902(i)	10541

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903(e)(3)	10544
903(f)	10543
903(g), (h)	10544
903(i)	10721
903(j), (k)	10541
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904(b) (less words after last semicolon).	10321
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904(d)	11108
904(e)	11701
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905(a) (1st sentence 1st cl.)	11101
905(a) (less 1st sentence 1st cl. and last sentence).	10702
905(b) (4th sentence)	10701, 10702
905(b) (less 4th sentence)	10703
905(c)	10741
905(d) (1st sentence 2d cl., 2d sentence related to facilities).	10701
905(d) (less 1st sentence 2d cl., 2d sentence related to standards).	10742
906(a), (b)	10762
906(c) (proviso)	10103, 10721–10724
906(c) (less proviso)	10761
906(d) (1st sentence)	10761
906(d) (less 1st sentence)	10762
906(e) (1st sentence related to standards).	10701
906(e) (1st sentence and 7th sentence proviso related to relief).	10702
906(e) (2d, 4th, 5th, and 6th sentences, and 7th sentence provision, related to general requirements).	10762
906(e) (3d sentence, and 7th sentence less proviso, and 7th sentence proviso related to relief).	10761
907(a)	11701
907(b)	10704
907(c)	10701
907(d), (e)	10705
907(f)	10704
907(g) (proviso)	Rep.
907(g) (less proviso)	10708
907(h)	10704
907(i) (proviso)	Rep.
907(i) (less proviso)	10708
908(a)–(e), (f)(4)	11705
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908(g)	11705
909(a) (words before 1st proviso).	10921
909(a) (words after 1st colon)	Rep.
909(b)–(e)	10922
909(f) (words before 1st proviso)	10921
909(f) (words after 1st colon)	Rep.
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910	10930
911(a)	10928
911(b)	11349
912	10926
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913(a)	11145
913(b)	10764
913(c)	11142
913(d)	11143
913(e)–(g)	11144
913 (less (a)–(g))	11141
914	10747
915(a)	10329
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915(c), (d)	10324
915(e)	11914
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916(b) (related to action by the Attorney General).	11703
916(b) (related to action by private person).	11705
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917(a)	11914
917(b), (c)	11904

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917 (less (a)–(e) and (f) (1st and 2d sentences)).	11910
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918 (less 1st sentence)	10744
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1004(a) (related to carrier authority).	10702
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1004(d)	10766
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1005(c) (less proviso)	10761
1005(d)	10762
1005(e)	10761
1006(a)	11701
1006(b)	10704
1006(c)	10701
1006(d)	10704
1006(e) (proviso)	Rep.
1006(e) (less proviso)	10708
1006(f) (2d and 3d sentences)	10502
1006(f) (less 2d last sentences)	11502
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1010(c) (2d sentence, words before semicolon).	10930
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ENACTING CLAUSES

Section 1(a) of Pub. L. 103–272, July 5, 1994, 108 Stat. 745, provided that: ''Certain general and permanent laws of the United States, related to transportation, are revised, codified, and enacted by subsections (c)–(e) of this section without substantive change as subtitles II, III, and V–X of title 49, United States Code, 'Transportation'. Those laws may be cited as '49 U.S.C. ————'.''

Section 1(a) of Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2413, provided that: ''Certain general and permanent laws of the United States, related to transportation, are revised, codified, and enacted by subsection (b) of this section without substantive change as subtitle I and chapter 31 of subtitle II of title 49, United States Code, 'Transportation'. Those laws may be cited as '49 U.S.C. §————'.''

Section 1 of Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1337, provided in part: ''That certain general and permanent laws of the United States, related to transportation, are revised, codified, and enacted as [subtitle IV of] title 49, United States Code, 'Transportation'.''

CLARIFICATION OF CONGRESSIONAL INTENT

Pub. L. 100–561, title III, §308, Oct. 31, 1988, 102 Stat. 2817, which provided that Pub. L. 95–473 did not repeal and had no substantive effect on any rights, obligations, liabilities, or remedies of oil pipelines, including those arising under any provisions of the Interstate Commerce Act or the Pomerene Bills of Lading Act, before any Federal department or agency or official thereof or a court of competent jurisdiction, was repealed and reenacted as section 60503 of this title by Pub. L. 103–272, §§1(e), 7(b), July 5, 1994, 108 Stat. 1329, 1379.

LEGISLATIVE PURPOSE AND CONSTRUCTION

Section 4 of Pub. L. 105–102, Nov. 20, 1997, 111 Stat. 2216, provided that:

''(a) NO SUBSTANTIVE CHANGE.—This Act restates, without substantive change, laws enacted before May 1, 1997, that were replaced by this Act. This Act may not be construed as making a substantive change in the laws replaced. Laws enacted after April 30, 1997, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

''(b) REFERENCES.—A reference to a law replaced by 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) CONTINUING EFFECT.—An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

''(d) ACTIONS AND OFFENSES UNDER PRIOR LAW.—An action taken or an offense committed under a law replaced by this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

''(e) INFERENCES.—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 a caption or catch line of the provision.

''(f) SEVERABILITY.—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 enacted by this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.''

Section 9 of Pub. L. 104–287, Oct. 11, 1996, 110 Stat. 3400, provided that:

''(a) NO SUBSTANTIVE CHANGE.—This Act restates, without substantive change, laws enacted before March 1, 1996, that were replaced by this Act. This Act may not be construed as making a substantive change in the laws replaced. Laws enacted after February 29, 1996, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

''(b) REFERENCES.—A reference to a law replaced by 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) CONTINUING EFFECT.—An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

''(d) ACTIONS AND OFFENSES UNDER PRIOR LAW.—An action taken or an offense committed under a law replaced by this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

''(e) INFERENCES.—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 a caption or catchline of the provision.

''(f) SEVERABILITY.—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 enacted by this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.''

Section 10 of Pub. L. 103–429, Oct. 31, 1994, 108 Stat. 4391, provided that:

''(a) NO SUBSTANTIVE CHANGE.—This Act restates, without substantive change, laws enacted before September 26, 1994, that were replaced by this Act. This Act may not be construed as making a substantive change in the laws replaced. Laws enacted after September 25, 1994, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

''(b) REFERENCES.—A reference to a law replaced by 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) CONTINUING EFFECT.—An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

''(d) ACTIONS AND OFFENSES UNDER PRIOR LAW.—An action taken or an offense committed under a law replaced by this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

''(e) INFERENCES.—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 a caption or catchline of the provision.

''(f) SEVERABILITY.—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 enacted by this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.''

Section 6 of Pub. L. 103–272, July 5, 1994, 108 Stat. 1378, provided that:

''(a) Sections 1–4 of this Act restate, without substantive change, laws enacted before July 1, 1993, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after June 30, 1993, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

''(b) A reference to a law replaced by sections 1–4 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 1–4 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 1–4 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

''(e) An inference of 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 a caption or catch line of the provision.

''(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 enacted by this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.''

Section 5 of Pub. L. 98–216, Feb. 14, 1984, 98 Stat. 7, provided that:

''(a) Sections 1–4 of this Act restate, without substantive change, laws enacted before April 1, 1983, that were replaced by those sections. Sections 1–4 may not be construed as making a substantive change in the laws replaced. Laws enacted after March 31, 1983, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

''(b) A reference to a law replaced by sections 1–4 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 1–4 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 1–4 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 of the provision.

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

Section 6 of Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2443, provided that:

''(a) Sections 1–5 of this Act restate, without substantive change, laws enacted before November 15, 1982, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after November 14, 1982, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

''(b) A reference to a law replaced by sections 1–5 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 1–5 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 1–5 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.''

Section 2 of Pub. L. 96–258, June 3, 1980, 94 Stat. 427, provided that:

''(a) Section 1 of this Act [enacting section 11351 of this title and amending sections 10324, 10327, 10382, 10525, 10526, 10544, 10706, 10784, 10923, 11101, 11121, 11304, 11707, 11909, 11912, and 11914 of this title] restates, without substantive change, laws enacted before April 24, 1979, that were replaced by that section. That section may not be construed as making a substantive change in the laws replaced. Laws enacted after April 23, 1979, 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 section 1 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 section 1 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 section 1 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.''

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

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

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

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

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

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

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

REPEALS AND SAVINGS PROVISIONS

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

Section 5(b) of Pub. L. 105–102, Nov. 20, 1997, 111 Stat. 2217, repealed specified laws, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before Nov. 20, 1997.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF CERTAIN REPEALS

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

TITLE REFERRED TO IN OTHER SECTIONS

This title is referred to in title 26 section 9502; title 31 section 3726; title 42 section 9607.

SUBTITLE I—DEPARTMENT OF TRANSPORTATION

Chap.		Sec.
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.
106. Federal Aviation Administration.
107. Federal Transit Administration.
108. Coast Guard.
109. Maritime Administration.
110. Saint Lawrence Seaway Development Corporation.
111. Bureau of Transportation Statistics.
112. Research and Special Programs Administration.

AMENDMENTS

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

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

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

§ 101. Purpose

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

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

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

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

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

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

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

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

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

HISTORICAL AND REVISION NOTES

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.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
101(b)	49:1651(b)(1).	

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

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

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

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

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

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

AMENDMENTS

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

SHORT TITLE OF 1995 AMENDMENT

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

SHORT TITLE OF 1994 AMENDMENT

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

SHORT TITLE OF 1991 AMENDMENT

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

CONGRESSIONAL DECLARATION OF POLICY REGARDING NATIONAL INTERMODAL TRANSPORTATION SYSTEM

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

''SECRETARY'' DEFINED

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

§ 102. Department of Transportation

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

(b) The head of the Department is the Secretary of Transportation. The Secretary is ap-

pointed by the President, by and with the advice and consent of the Senate.

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

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

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

(d) The Department has an Associate Deputy Secretary appointed by the President, by and with the advice and consent of the Senate. The Associate Deputy Secretary shall carry out powers and duties prescribed by the Secretary.

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

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

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2414; Pub. L. 98–557, §26(a), Oct. 30, 1984, 98 Stat. 2873; Pub. L. 103–272, §4(j)(1), July 5, 1994, 108 Stat. 1365.)

HISTORICAL AND REVISION NOTES

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

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

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

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

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

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

AMENDMENTS

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

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

SURFACE TRANSPORTATION ADMINISTRATION

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

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

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

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

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

EX. ORD. NO. 11340. EFFECTIVE DATE

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

LYNDON B. JOHNSON.

§ 103. Federal Railroad Administration

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

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

(c) The Administrator shall carry out—

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

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

(d) A duty or power specified by subsection (c)(1) of this section may be transferred to another part of the Department only when specifically provided by law or a reorganization plan submitted under chapter 9 of title 5. A decision of the Administrator in carrying out those duties or powers and involving notice and hearing required by law is administratively final.

(e) Subject to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Secretary of Transportation may make, enter into, and perform such contracts, grants, leases, cooperative agreements, and other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and make such payments, by way of advance or reimbursement, as the Secretary may determine to be necessary or appropriate to carry out functions of the Federal Railroad Administration. The authority of the Secretary granted by this subsection shall be carried out by the Administrator. Notwithstanding any other provision of this chapter, no authority to enter into contracts or to make payments under this subsection shall be effective, except as provided for in appropriations Acts.

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2414; Pub. L. 98–216, § 2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103–272, § 5(m)(1), July 5, 1994, 108 Stat. 1375; Pub. L. 103–440, title II, § 216, Nov. 2, 1994, 108 Stat. 4624.)

HISTORICAL AND REVISION NOTES
PUB. L. 97–449

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
103(a)	49:1652(e)(1) (1st sentence related to FRA).	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.
	49:1652a.	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).	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.
	49:1652(e)(3) (related to FRA) (less last sentence).	
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 Federal Property and Administrative Services Act of 1949, referred to in subsec. (e), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40, Public Buildings, Property, and Works, and Tables.

AMENDMENTS

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

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

1984—Subsec. (c)(1). Pub. L. 98–216 substituted ''49 App. U.S.C.'' for ''49 U.S.C.''.

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 104. Federal Highway Administration

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

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

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

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

(c) The Administrator shall carry out—

(1) duties and powers vested in the Secretary by chapter 4 of title 23 for highway safety pro-

grams, research, and development related to highway design, construction and maintenance, traffic control devices, identification and surveillance of accident locations, and highway-related aspects of pedestrian safety;

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

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

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

(e) 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, 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.)

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. (e), 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

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

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

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

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 105. National Highway Traffic Safety Administration

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

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

(c) The Administrator shall carry out—

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

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

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

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

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

AMENDMENTS

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

§ 106. Federal Aviation Administration

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

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

(c) The Administrator must—

(1) be a citizen of the United States;

(2) be a civilian; and

(3) have experience in a field directly related to aviation.

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

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

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

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

(f) 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 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 provi-

sion 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.

(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 $100,000,000 or more (adjusted annually for inflation beginning with the year following the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996) 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 $100,000,000 or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(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.

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

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

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

(A) duties and powers of the Secretary of Transportation under subsection (f) of this section related to aviation safety (except those related to transportation, packaging, marking, or description of hazardous material) and stated in sections 308(b), 1132(c) and (d), 40101(c), 40103(b), 40106(a), 40108, 40109(b), 40113(a), (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, 46104, 46301(d) and (h)(2), 46303(c), 46304–46308, 46310, 46311, and 46313–46316, chapter 465, and sections 47504(b) (related to flight procedures), 47508(a), and 48107 of this title; and

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

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

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

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

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

(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—There is authorized to be appropriated to the Secretary of Transportation for operations of the Administration $5,158,000,000 for fiscal year 1997 and $5,344,000,000 for fiscal year 1998.

(*l*) PERSONNEL AND SERVICES.—

(1) OFFICERS AND EMPLOYEES.—Except as provided in section 40122(a) of this title and section 347 of Public Law 104–50, 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 services under section 326 of this title, and without regard to section 1342 of title 31, the Administrator may not accept voluntary and uncompensated services if such services are used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

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

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

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

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

to or to receive from the Administration, without reimbursement, supplies 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.—

(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 15 members, who shall consist of—

(A) a designee of the Secretary of Transportation;

(B) a designee of the Secretary of Defense; and

(C) 13 members representing aviation interests, appointed by the President by and with the advice and consent of the Senate.

(3) QUALIFICATIONS.—No member appointed under paragraph (2)(C) may serve as an officer or employee of the United States Government while serving as a member of the Council.

(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 rulemaking 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 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 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 or such aviation rulemaking committees as the Administrator shall designate.

(6) ADMINISTRATIVE MATTERS.—

(A) TERMS OF MEMBERS.—(i) Except as provided in subparagraph (B), members of the Council appointed by the President under paragraph (2)(C) shall be appointed for a term of 3 years.

(ii) Of the members first appointed by the President—

(I) 4 shall be appointed for terms of 1 year;

(II) 5 shall be appointed for terms of 2 years; and

(III) 4 shall be appointed for terms of 3 years.

(iii) An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(iv) A member whose term expires shall continue to serve until the date on which the member's successor takes office.

(B) 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.

(C) TRAVEL AND PER DIEM.—Each member of the Council 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.

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

(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.

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2416; Pub. L. 98–216, § 2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 100–591, § 5(a), Nov. 3, 1988, 102 Stat. 3013; Pub. L. 101–508, title IX, § 9106, Nov. 5, 1990, 104 Stat. 1388–355; Pub. L. 101–604, title I, § 101(c), Nov. 16, 1990, 104 Stat. 3068; Pub. L. 102–581, title I, § 104, Oct. 31, 1992, 106 Stat. 4877; Pub. L. 103–272, §§ 4(j)(3), 5(m)(4), July 5, 1994, 108 Stat. 1365, 1375; Pub. L. 103–305, title I, § 103, title II, § 201, Aug. 23, 1994, 108 Stat. 1571, 1581; 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.)

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).	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.
	49:1652(e)(1) (related to FAA).	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).	

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

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

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

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

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

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

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

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

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

In subsection (d)(3), the words ''acceptance of, and'' are omitted as unnecessary. The word ''held'' is 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 Air Traffic Management System Performance Improvement Act of 1996, referred to in subsecs. (f)(3)(B)(i), (C), (*o*), and (p)(1), is the date of enactment of Pub. L. 104–264, which was approved Oct. 9, 1996.

Section 347 of Public Law 104–50, referred to in subsec. (*l*)(1), is set out as a note below.

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

AMENDMENTS

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 1997 AMENDMENT

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

Pub. L. 105–102, §3(f), Nov. 20, 1997, 111 Stat. 2216, provided that: ''The amendments made by subsections (a) through (d) of this section [amending this section and

sections 5302, 30501 to 30504, 45301, 46301, 46316, 47117, and 47128 of this title, renumbering section 40121 of this title as 40124 of this title, and amending provisions set out as notes under sections 5303 and 47117 of this title] shall take effect as if included in the provisions of the Acts to which the amendments relate.''

EFFECTIVE DATE OF 1996 AMENDMENT

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

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

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

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

FINDINGS

Section 221 of Pub. L. 104–264 provided that: ''Congress finds the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PURPOSES

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

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

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

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

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

PRESERVATION OF EXISTING AUTHORITY

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

PERSONNEL MANAGEMENT SYSTEM FOR FEDERAL AVIATION ADMINISTRATION

Pub. L. 104–50, title III, § 347, Nov. 15, 1995, 109 Stat. 460, as amended by Pub. L. 104–122, Mar. 29, 1996, 110 Stat. 876, provided that:

''(a) In consultation with the employees of the Federal Aviation Administration and such non-govern-

mental experts in personnel management systems as he may employ, and notwithstanding the provisions of title 5, United States Code, and other Federal personnel laws, the Administrator of the Federal Aviation Administration shall develop and implement, not later than January 1, 1996, a personnel management system for the Federal Aviation Administration that addresses the unique demands on the agency's workforce. Such a new system shall, at a minimum, provide for greater flexibility in the hiring, training, compensation, and location of personnel.

''(b) The provisions of title 5, United States Code, shall not apply to the new personnel management system developed and implemented pursuant to subsection (a), with the exception of—

''(1) section 2302(b), relating to whistleblower protection;

''(2) sections 3308–3320, relating to veterans' preference;

''(3) chapter 71, relating to labor-management relations;

''(4) section 7204, relating to antidiscrimination;

''(5) chapter 73, relating to suitability, security, and conduct;

''(6) chapter 81, relating to compensation for work injury; and

''(7) chapters 83–85, 87, and 89, relating to retirement, unemployment compensation, and insurance coverage.

''(c) This section shall take effect on April 1, 1996.''

DEPENDENTS OF FEDERAL AVIATION ADMINISTRATION PERSONNEL

Provisions authorizing the expenditure of certain funds appropriated for the Federal Aviation Administration for (1) except as otherwise authorized by title VIII of the Elementary and Secondary Education Act of 1965, see 20 U.S.C. 7701 et seq., expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents, and (2) transportation of said dependents between schools serving the area which they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis, were contained in the following appropriation acts:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AVIATION SAFETY COMMISSION

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

APPOINTMENT OF RETIRED MILITARY OFFICER AS ADMINISTRATOR

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

tled 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.

DEFINITIONS

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

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

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

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 322, 44507, 50101, 50102, 50105 of this title.

§ 107. Federal Transit Administration

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

AMENDMENTS

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

CHANGE OF NAME

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

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

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

§ 108. Coast Guard

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

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

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

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2417; Pub. L. 103–272, § 4(j)(4), July 5, 1994, 108 Stat. 1365.)

HISTORICAL AND REVISION NOTES
PUB. L. 97–449

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

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

§ 109. Maritime Administration

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

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

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

HISTORICAL AND REVISION NOTES

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.

AMENDMENTS

1994—Pub. L. 103–272 inserted ''App.'' after ''(46'' in subsecs. (a) and (b).

§ 110. Saint Lawrence Seaway Development Corporation

(a) The Saint Lawrence Seaway Development Corporation established under section 1 of the Act of May 13, 1954 (33 U.S.C. 981), is subject to the direction and supervision of the Secretary of Transportation.

(b) The Administrator of the Corporation appointed under section 2 of the Act of May 13, 1954 (33 U.S.C. 982), reports directly to the Secretary.

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2418; Pub. L. 103–272, § 4(j)(5)(A), July 5, 1994, 108 Stat. 1366.)

HISTORICAL AND REVISION NOTES

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. Bureau of Transportation Statistics

(a) ESTABLISHMENT.—There is established in the Department of Transportation a Bureau of Transportation Statistics.

(b) DIRECTOR.—

(1) APPOINTMENT.—The Bureau shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the compilation and analysis of transportation statistics.

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

(4) TERM.—The term of the Director shall be 4 years. The term of the first Director to be appointed shall begin on the 180th day after December 18, 1991. The Director may continue to serve after the expiration of the term until a successor is appointed and confirmed.

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

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

(A) productivity in various parts of the transportation sector;

(B) traffic flows;

(C) travel times;

(D) vehicle weights;

(E) variables influencing traveling behavior, including choice of transportation mode;

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

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

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

(I) accidents;

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

(K) the condition of the transportation system.

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

(A) be coordinated with efforts to develop performance indicators for the national transportation system undertaken pursuant to section 307(b)(3) of title 23, United States Code;

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

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

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

(4) COORDINATING COLLECTION OF INFORMATION.—Coordinating the collection of information by the Department of Transportation required for statistics to be compiled under paragraph (1) with related information-gathering activities conducted by other Federal de-

partments and agencies and collecting appropriate data not elsewhere gathered.

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

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

(d) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—

(1) to authorize the Bureau to require any other department or agency to collect data; or

(2) to reduce the authority of any other officer of the Department of Transportation to collect and disseminate data independently.

(e) PROHIBITION ON CERTAIN DISCLOSURES.—Information compiled by the Bureau shall not be disclosed publicly in a manner that would reveal the personal identity of any individual, consistent with the Privacy Act of 1974 (5 U.S.C. 552a), or to reveal trade secrets or allow commercial or financial information provided by any person to be identified with such person.

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

(g) PERFORMANCE OF FUNCTIONS OF DIRECTOR PENDING CONFIRMATION.—An individual who, on December 18, 1991, is performing any function required by this section to be performed by the Director may continue to perform such function until such function is undertaken by the Director.

(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.)

REFERENCES IN TEXT

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

AMENDMENTS

1997—Pub. L. 105–130 made technical amendment to directory language of Pub. L. 102–240, § 6006(a), which enacted this section.

1996—Subsec. (b)(4). Pub. L. 104–324 inserted at end ''The Director may continue to serve after the expiration of the term until a successor is appointed and confirmed.''

Pub. L. 104–287 substituted ''December 18, 1991'' for ''the date of the enactment of this section''.

Subsec. (g). Pub. L. 104–287 substituted ''December 18, 1991'' for ''the date of the enactment of this section''.

ADVISORY COUNCIL ON TRANSPORTATION STATISTICS

Section 6007 of Pub. L. 102–240 provided that:

''(a) ESTABLISHMENT.—The Director of the Bureau of Transportation Statistics shall establish an Advisory Council on Transportation Statistics.

''(b) FUNCTION.—It shall be the function of the advisory council established under this section to advise the Director of the Bureau of Transportation Statistics on transportation statistics and analyses, including whether or not the statistics and analysis disseminated by the Bureau of Transportation Statistics are of high quality and are based upon the best available objective information.

''(c) MEMBERSHIP.—The advisory council established under this section shall be composed of not more than 6 members appointed by the Director who are not officers or employees of the United States and who (except for 1 member who shall have expertise in economics and 1 member who shall have expertise in statistics) have expertise in transportation statistics and analysis.

''(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act [5 App. U.S.C.] shall apply to the advisory council established under this section, except that section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee established under this section.''

STUDY OF DATA COLLECTION PROCEDURES AND CAPABILITIES OF DEPARTMENT OF TRANSPORTATION

Section 6008 of Pub. L. 102–240 provided that:

''(a) STUDY.—Not later than 1 year after the date of the establishment of the Bureau of Transportation Statistics, the Secretary shall enter into an agreement with the National Academy of Sciences to conduct a study on the adequacy of data collection procedures and capabilities of the Department of Transportation.

''(b) CONSULTATION.—The Secretary shall enter into the agreement under subsection (a) in consultation with the Director of the Bureau of Transportation Statistics.

''(c) CONTENTS.—The study under subsection (a) shall include an evaluation of the Department of Transportation's data collection resources, needs, and requirements and an assessment and evaluation of the systems, capabilities, and procedures established by the Department to meet such needs and requirements, including the following:

''(1) Data collection procedures and capabilities.

''(2) Data analysis procedures and capabilities.

''(3) Ability of data bases to integrate with one another.

''(4) Computer hardware and software capabilities.

''(5) Information management systems, including the ability of information management systems to integrate with one another.

''(6) Availability and training of the personnel of the Department.

''(7) Budgetary needs and resources of the Department for data collection.

''(d) REPORT.—Not later than 18 months after the date of the agreement under subsection (a), the National Academy of Sciences shall transmit to Congress a report on the results of the study under this section, including recommendations for improving the Department of Transportation's data collection systems, capabilities, procedures, and analytical hardware and software and recommendations for improving the Department's management information systems.''

§ 112. Research and Special Programs Administration

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

(b) ADMINISTRATOR.—

(1) APPOINTMENT.—The Administration shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) REPORTING.—The Administrator shall report directly to the Secretary.

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

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

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

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

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

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

(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall affect any delegation of authority, regulation, order, approval, exemption, waiver, contract, or other administrative act of the Secretary with respect to laws administered through the Research and Special Programs Administration of the Department of Transportation on October 24, 1992.

(Added Pub. L. 102–508, title IV, § 401(a), Oct. 24, 1992, 106 Stat. 3310; amended Pub. L. 103–429, § 6(1), Oct. 31, 1994, 108 Stat. 4378.)

AMENDMENTS

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

DEVELOPMENT OF UNDERGROUND UTILITY LOCATION TECHNOLOGIES

Section 306 of Pub. L. 102–508 provided that:

''(a) IN GENERAL.—The Secretary of Transportation shall carry out a research and development program on underground utility location technologies.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.''

CHAPTER 3—GENERAL DUTIES AND POWERS

SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION

Sec.
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303. Policy on lands, wildlife and waterfowl refuges, and historic sites.
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304. Joint activities with the Secretary of Housing and Urban Development.
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SUBCHAPTER III—MISCELLANEOUS

351. Judicial review of actions in carrying out certain transferred duties and powers.
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353. Toxicological testing of officers and employees.

AMENDMENTS

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

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

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

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

SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION

§ 301. Leadership, consultation, and cooperation

The Secretary of Transportation shall—

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

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

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

(4) promote and undertake the development, collection, and dissemination of technological, statistical, economic, and other information

relevant to domestic and international transportation;

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

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

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

AMENDMENTS

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

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

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

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

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

MODEL INTERMODAL TRANSPORTATION PLANS

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

NATIONAL COMMISSION ON INTERMODAL TRANSPORTATION

Section 5005 of Pub. L. 102–240 provided for establishment of a National Commission on Intermodal Trans-

portation, 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

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

UNDERGROUND PIPELINES

Section 6020 of Pub. L. 102–240 directed Secretary of Transportation to conduct a study to evaluate feasibility, costs, and benefits of constructing and operating pneumatic capsule pipelines for underground movement of commodities other than hazardous liquids and gas, and to submit, not later than 2 years after Dec. 18, 1991, a report to Congress on the results of the study, 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 2465 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 302. Policy standards for transportation

(a) The Secretary of Transportation is governed by the transportation policy of sections 10101 and 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, 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

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

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

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

AMENDMENTS

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.

SECTION REFERRED TO IN OTHER SECTIONS

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

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

(a) It is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

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

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

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

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

AMENDMENTS

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

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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 305 of this title; title 16 section 460kkk; title 23 sections 108, 117; title 45 sections 1116, 1212.

§ 303a. Development of water transportation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

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

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

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

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

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

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

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

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

(1) consult and exchange information about their respective transportation policies and activities;

(2) carry out joint planning, research, and other activities;

(3) coordinate assistance for local transportation projects; and

(4) jointly study methods by which policies and programs of the United States Government can ensure that urban transportation systems most effectively serve both transportation needs of the United States and the comprehensively planned development of urban areas.

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

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

HISTORICAL AND REVISION NOTES

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.

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 305. Transportation investment standards and criteria

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

(1) the acquisition of transportation facilities or equipment by a department, agency, or instrumentality of the Government to provide transportation for its use;

(2) an inter-oceanic canal located outside the 48 contiguous States;

(3) defense features included at the direction of the Department of Defense in designing and constructing civil air, sea, or land transportation;

(4) foreign assistance programs;

(5) water resources projects; or

(6) grant-in-aid programs authorized by law.

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

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

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

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

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

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

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

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

(B) as appropriate, with other departments, agencies, and instrumentalities of the Government, States, and local govern-

ments, and include their views and comments; and

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

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

HISTORICAL AND REVISION NOTES

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

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

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

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

§ 306. Prohibited discrimination

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

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

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

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

(1) direct that no more Federal financial assistance be provided the person.

(2) refer the matter to the Attorney General with a recommendation that a civil action be brought against the person.

(3) carry out the duties and powers provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(4) take other action provided by law.

(e) When a matter is referred to the Attorney General under subsection (d)(2) of this section, or when the Attorney General has reason to believe that a person is engaged in a pattern or practice violating this section, the Attorney General may begin a civil action in a district court of the United States for appropriate relief.

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2421; Pub. L. 98–216, §2(3), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103–272, §5(m)(7), July 5, 1994, 108 Stat. 1376.)

HISTORICAL AND REVISION NOTES
PUB. L. 97–449

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

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

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

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

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

PUB. L. 98–216

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

REFERENCES IN TEXT

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

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

AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

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

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

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

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

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

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

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.

§ 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 a report to Congress in January of each even-numbered year of estimates by the Secretary on the cur-

rent performance and condition of public mass transportation systems with recommendations for necessary administrative or legislative changes.

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

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2422; Pub. L. 98–216, § 2(1)(A), Feb. 14, 1984, 98 Stat. 4; Pub. L. 104–66, title I, § 1121(h), Dec. 21, 1995, 109 Stat. 724.)

HISTORICAL AND REVISION NOTES

PUB. L. 97–449

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
308(a)	45:792.	Jan. 2, 1974, Pub. L. 93–236, § 602, 87 Stat. 1022.
	49:1658.	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(8), 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

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).

ANNUAL REPORT ON SAFETY ENFORCEMENT ACTIVITIES OF FEDERAL AVIATION ADMINISTRATION

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

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 309. High-speed ground transportation

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

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

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

(B)(i) Any eligible applicant may submit to the Secretary a proposal for demonstration of any advancement in a high-speed ground transportation technology or technologies to be incorporated as a component, subsystem, or sys-

tem in any revenue service high-speed ground transportation project or system under construction or in operation at the time the application is made.

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

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

(II) safety and reliability;

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

(IV) minimization of land use;

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

(VI) energy and power consumption and cost;

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

(VIII) actual and projected ridership; and

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

(C) For the purposes of this paragraph, the term ''eligible applicant'' means any United States private business, State government, local government, organization of State or local government, or any combination thereof. The term does not include any business owned in whole or in part by the Federal Government.

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

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

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

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

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

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

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

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

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

(d)(1) Not later than June 1, 1995, the Secretary shall complete and submit to Congress a study of the commercial feasibility of constructing 1 or more high-speed ground transportation systems in the United States. Such study shall consist of—

(A) an economic and financial analysis;

(B) a technical assessment; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The Policy shall include—

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

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

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

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

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

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

REFERENCES IN TEXT

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

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

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

EFFECTIVE DATE

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

NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT PROGRAM

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

''(1) MANAGEMENT OF PROGRAM.—There is hereby established a national magnetic levitation prototype development program to be managed by a program director appointed jointly by the Secretary and the Assistant Secretary of the Army for Civil Works (hereinafter in this subsection referred to as the 'Assistant Secretary'). To carry out such program, the Secretary and the Assistant Secretary shall establish a national maglev joint project office (hereinafter in this subsection referred to as the 'Maglev Project Office'),

which shall be headed by the program director, and shall enter into such arrangements as may be necessary for funding, staffing, office space, and other requirements that will allow the Maglev Project Office to carry out its functions. In carrying out such program, the program director shall consult with appropriate Federal officials, including the Secretary of Energy and the Administrator of the Environmental Protection Agency.

''(2) PHASE ONE CONTRACTS.—

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

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

''(C) FACTORS AND CONDITIONS TO BE CONSIDERED.—The Secretary and the Assistant Secretary may approve contracts under subparagraph (B) only after consideration of factors relating to the construction and operation of a magnetic levitation system, including the cost-effectiveness, ease of maintenance, safety, limited environmental impact, ability to achieve sustained high speeds, ability to operate along the Interstate highway rights-of-way, the potential for the guideway design to be a national standard, the applicant's resources, capabilities, and history of successfully designing and developing 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 pursuant to an agreement reached pursuant to this subsection, including the terms under which any technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-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, Jan. 12, 1983, 96 Stat. 2422; Pub. L. 98–216, § 2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103–272, § 5(m)(8), July 5, 1994, 108 Stat. 1376; Pub. L. 103–429, § 6(2), Oct. 31, 1994, 108 Stat. 4378.)

HISTORICAL AND REVISION NOTES
PUB. L. 97–449

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

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

PUB. L. 103–429

This makes a clarifying amendment to 49:321.

AMENDMENTS

1994—Pub. L. 103–429 struck out '', respectively'' after ''of this title''.

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

1984—Pub. L. 98–216 substituted ''49 App. U.S.C.'' for ''49 U.S.C.''.

EFFECTIVE DATE OF 1994 AMENDMENT

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

§ 322. General powers

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

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

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

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

(2) cooperate with those departments, agencies, and instrumentalities in establishing and using aviation services, equipment, and facilities of the Department; and

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

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

(1) rent and personal services;

(2) travel expenses;

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

(4) printing and binding;

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

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

(7) investigations and studies about aeronautics; and

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

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

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

(2) procurement by advertising would likely result in additional cost to the Government by duplication of investment or would result in

duplication of necessary preparation that would unreasonably delay procuring the property.

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

HISTORICAL AND REVISION NOTES

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

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

In subsection (a), the words ''may prescribe regulations to carry out the duties and powers'' are 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.

EXECUTIVE ORDER NO. 11382

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

§ 323. Personnel

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

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

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

HISTORICAL AND REVISION NOTES

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

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
323(b)	49:1343(g) (1st sentence 33d–43d words). 49:1657(b).	Aug. 23, 1958, Pub. L. 85–726, § 302(i) (1st sentence 31st–41st words), 72 Stat. 747.

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

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

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

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

§ 324. Members of the armed forces

(a) The Secretary of Transportation—

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

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

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

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

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

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

HISTORICAL AND REVISION NOTES

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). 49:1657(d)(1).	

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

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

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

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

In subsection (d), the words ''The Secretary of a military department'' are substituted for ''his armed force

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 14 section 42.

§ 325. Advisory committees

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

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

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

TERMINATION OF ADVISORY COMMITTEES

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

§ 326. Gifts

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

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

(1) gifts of money;

(2) income from property accepted under this section and proceeds from the sale of that property; and

(3) income from securities under subsection (c) of this section.

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

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

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

HISTORICAL AND REVISION NOTES

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.
	49:1657(m)(1) (1st, 3d sentences).	Oct. 15, 1966, Pub. L. 89–670, § 9(m), 80 Stat. 946.
326(b)	49:1657(m)(1) (2d sentence), (3) (less 1st sentence).	
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 unnecessary words. The word ''property'' is substituted for ''property, both real and personal'' in 49:1657(m)(1), and ''gift or donation of money or other property, real and personal'' in 49:1344(c)(1) to eliminate unnecessary words. The words ''aviation duties and powers'' are added because the source provisions being restated only applies to carrying out duties and powers related to the Federal Aviation Administration. The words ''under this section and proceeds from that property'' are substituted for ''pursuant to this paragraph, and the proceeds thereof'' in 49:1657(m)(1) for clarity.

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

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

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

AMENDMENTS

1986—Subsec. (d). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 327. Administrative working capital fund

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

(1) a central supply service for stationery and other supplies and equipment through which adequate stocks may be maintained to meet the requirements of the Department;

(2) central messenger, mail, telephone, and other communications services;

(3) office space;

(4) central services for document reproduction, and for graphics and visual aids; and

(5) a central library service.

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

(c) The fund consists of—

(1) amounts appropriated to the fund;

(2) the reasonable value of stocks of supplies, equipment, and other assets and inventories on order that the Secretary transfers to the fund, less the related liabilities and unpaid obligations;

(3) amounts received from the sale or exchange of property; and

(4) payments received for loss or damage to property of the fund.

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

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

HISTORICAL AND REVISION NOTES

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

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

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

In subsection (c), the words ''The fund consists of'' are substituted for ''The capital of the fund shall consist of'' and ''The fund shall also be credited with'' for clarity. The word ''reasonable'' is substituted for ''fair and reasonable'' because it is inclusive. The words ''amounts appropriated to the fund'' are substituted for ''of any appropriations made for the purpose of providing capital'' for clarity. The words ''amounts received

from the sale'' are substituted for ''receipts from the sale'', and the words ''payments received for loss'' are substituted for ''receipts in payment for'', as being more precise.

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

§ 328. Transportation Systems Center working capital fund

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

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

(c) The capital of the fund consists of—

(1) amounts appropriated to the fund;

(2) net assets of the Center as of October 1, 1980, including unexpended advances made to the Center for which valid obligations were incurred before October 1, 1980;

(3) the reasonable value of property and other assets transferred to the fund after September 30, 1980, less the related liabilities and unpaid obligations; and

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

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

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

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

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

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

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

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

HISTORICAL AND REVISION NOTES

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

ing 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.

(Pub. L. 97–449, 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.)

HISTORICAL AND REVISION NOTES
PUB. L. 97–449

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
329(a)	49:1634.	Sept. 30, 1965, Pub. L. 89–220, § 4, 79 Stat. 893.
	49:1655(a)(2)(A) (related to 49:1634).	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.
329(b)	49:1352.	Aug. 23, 1958, Pub. L. 85–726, § 311, 72 Stat. 751.
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

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 1984 AMENDMENT

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

§ 330. Research contracts

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

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

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

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

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

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

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

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

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
330(a)	49:1657(q)(1).	Oct. 15, 1966, Pub. L. 89–670, § 9(q)(1)–(3), 80 Stat. 947.
	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.

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

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

(1) emergency medical services and supplies.

(2) food and other subsistence supplies.

(3) messing facilities.

(4) motion picture equipment and film for recreation and training.

(5) living and working quarters and facilities.

(6) reimbursement for food, clothing, medicine, and other supplies provided by an officer or employee in an emergency for the temporary relief of individuals in distress.

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

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

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

HISTORICAL AND REVISION NOTES
PUB. L. 97–449

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

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

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

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

PUB. L. 103–272

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

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–272 substituted ''medical treatment provided under subsection (a)(1) of this 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 businesses to disseminate information to them on business opportunities related to the maintenance, rehabilitation, restructuring, improvement, and revitalization of the railroads of the United States;

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

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

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

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

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

(7) make arrangements to carry out this section.

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

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

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

HISTORICAL AND REVISION NOTES

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

In subsection (b), before clause (1), the word ''has'' is substituted for ''The Secretary shall, within 180 days after February 5, 1976, establish'' because the time for establishing the Center has expired and the Center has been established. The words ''The Department of Transportation'' are added because of the restatement of the section. The words ''(hereafter in this section referred to as the 'Center')'' after ''Minority Resource Center'' are omitted because of the style of the revised title.

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

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

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

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

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

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

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

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

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

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 333. Responsibility for rail transportation unification and coordination projects

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

(b) To achieve a more efficient, economical, and viable rail system in the private sector, the Secretary, when requested by a rail carrier and under this section, may assist in planning, negotiating, and carrying out a unification or 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 subpena must be issued under the signature of the Secretary.

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

(A) officers and directors of an affected rail carrier;

(B) representatives of rail carrier employees who may be affected;

(C) representatives of the Interstate Commerce Commission;

(D) State and local government officials, shippers, and consumer representatives; and

(E) representatives of the Federal Trade Commission and the Attorney General.

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

(e) When the approval of a proposal submitted by a rail carrier for a merger or other action is subject to the jurisdiction of the Interstate Commerce Commission under section 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 Commission, the Secretary may appear in any proceeding related to the application.

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2429; Pub. L. 104–88, title III, § 308(b), Dec. 29, 1995, 109 Stat. 946.)

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

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 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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 306, 11324 of this title; title 45 section 903.

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

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

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

§ 336. Civil penalty procedures

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

§ 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

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

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

SUBCHAPTER III—MISCELLANEOUS

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

(a) JUDICIAL REVIEW.—An action of the Secretary of Transportation in carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89–670, 80 Stat. 931), or an action of the Administrator of the Federal Railroad Administration, the Federal Highway Administration, or the Federal Aviation Administration in carrying out a duty or power specifically assigned to the Administrator by that Act, may be reviewed judicially to the same extent and in the same way as if the action had been an action by the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer or assignment.

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

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

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

HISTORICAL AND REVISION NOTES

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

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

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

REFERENCES IN TEXT

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

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 Highway Administration, and the Federal Aviation Administration have the same authority that was vested in the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer. An action of the Secretary or Administrator in carrying out the duty or power has the same effect as when carried out by the department, agency, or instrumentality.

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

HISTORICAL AND REVISION NOTES

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

The words ''force and'' are omitted as surplus.

REFERENCES IN TEXT

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

§ 353. Toxicological testing of officers and employees

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

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

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

In subsection (c), the words ''An officer or employee required to submit to toxicological testing may not assert'' are substituted for ''may not be asserted'' for clarity.

CHAPTER 5—SPECIAL AUTHORITY

SUBCHAPTER I—POWERS

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501. Definitions and application.
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504. Reports and records.
505. Arrangements and public records.
506. Authority to investigate.
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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 subpenas.
526. General criminal penalty when specific penalty not provided.

AMENDMENTS

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.

CHAPTER REFERRED TO IN OTHER SECTIONS

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

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, 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 com-

pleted 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

Section 1 of Pub. L. 102–548 provided that: ''This Act [enacting section 508 of this title, amending this section and section 521 of this title, and enacting 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 subpena 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 subpena, 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 subpena. The court may punish a refusal to obey an order of the court to comply with a subpena 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 subpena the witness to take a deposition, produce the records, or both.

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

(3) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

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

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

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

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

HISTORICAL AND REVISION NOTES
PUB. L. 97–449

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
502	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89–670, § 6(f)(2), 80 Stat. 940.

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

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
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 subpena power).	10321
(e)(1)–(3)	12(4).	10321
	305(d) (related to depositions taken by Commission).	10321
(e)(4) and (5)	12(5), (6).	10321
	305(d) (related to depositions taken by Commission).	10321
(f)	12(7).	10321
	18(1) (last sentence).	10321
	305(d) (related to depositions taken by Commission).	10321

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

The text of 49:305(a)–(c), (e), and (g)–(j) is not included for motor carriers of migrant workers and motor 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, Jan. 12, 1983, 96 Stat. 2432.)

HISTORICAL AND REVISION NOTES

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

The section is included because 49:1655(e)(6)(D) transferred to the Secretary of Transportation all functions, powers, and duties of the Interstate Commerce Commission under 49:321(a) and (c) to the extent those sub-

sections relate to motor carriers of migrant workers and motor private carriers. The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

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

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

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

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

§ 504. Reports and records

(a) In this section—

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

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

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

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

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

(A) carriers and lessors; and

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

(2) The Secretary may require—

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

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

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

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

(2) inspect and copy any record of—

(A) a carrier, lessor, or association;

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

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

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

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

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

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

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

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
504	49:304(a)(3) (last sentence) (related to ''Sec. 320(a) (1st, 2d sentences), (b)–(g)'').	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to ''Sec. 220(a) (1st, 2d sentences), (b)–(g)''); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to ''Sec. 320(a) (1st, 2d sentences), (b)–(g)'').	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to ''Sec. 220(a) (1st, 2d sentences), (b)–(g)''); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.
	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89–670, §6(f)(2), 80 Stat. 940.
504(f)	49:320(f).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §220(f); added Sept. 18, 1940, ch. 722, §24, 54 Stat. 926.

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

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

Section 504	49 U.S. Code	Revised Section
	320(a) (1st sentence).	11145
(c)	20(5) (less 1st sentence), (6) (less 2d sentence).	11144
	320(d) (3d and 4th sentences).	11144
(d)	20(7)(b) (proviso).	11144
	320(d) (less 1st, 3d, and 4th sentences).	11144
(e)	20(1) (1st sentence related to manner and form of reports).	11145
	320(a) (2d sentence), (b).	11145

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

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

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

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

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 505, 521, 522, 523, 14303, 31136 of this title.

§ 505. Arrangements and public records

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

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

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

HISTORICAL AND REVISION NOTES

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

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

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

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

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

Subsection (b) does not apply to reports made to the Secretary by a rail carrier because 49:16(13) is not included in the specific enumeration of 49:1655(f)(2)(B)(ii). The subsection does not apply to motor carriers of migrant workers and motor private carriers because 49:304(d) only applies to motor carriers and 49:304(a)(3) and (3a) do not apply 49:304(d) to motor carriers of migrant workers and motor private carriers. References to schedules, classifications, and tariffs are omitted as not applicable to this chapter. The words ''Except as provided in subsection (a) of this section'' are added for clarity. The words ''except as provided in section 504(f) of this title'' are added for clarity and consistency because of the restatement of the chapter.

§ 506. Authority to investigate

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

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

(c) The Secretary shall make a written report of each proceeding involving a rail carrier or

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

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

HISTORICAL AND REVISION NOTES

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

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

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

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

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

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

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

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

§ 507. Enforcement

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

(1) an order of the Secretary under this chapter when violated by a rail carrier; and

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

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

(c) The Attorney General, at the request of the Secretary, may bring an action in an appropriate district court of the United States for equitable relief to redress a violation by any person of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title, or an order or regulation issued under any of those provisions. Such district court shall have jurisdiction to determine any such action and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

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

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

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

Section 507	*49 U.S. Code*	*Revised Section*
(a)	16(12) (related to Commission action).	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.

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

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

REGULATIONS

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

SUBCHAPTER II—PENALTIES

§ 521. Civil penalties

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

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

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

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

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

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

(B) The Secretary shall, not later than 60 days after 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 vio-

lations not specified by the Secretary as serious.

(2) CIVIL PENALTY.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of a recordkeeping requirement issued by the Secretary under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title or which is a violation of chapter 59 of this title shall be liable to the United States for a civil penalty not to exceed $500 for each offense. Each day of a violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses relating to any single violation shall not exceed $2,500. If the Secretary determines that a serious pattern of safety violations, other than recordkeeping requirements, exists or has occurred, the Secretary may assess a civil penalty not to exceed $1,000 for each offense; except that the maximum fine for each such pattern of safety violations shall not exceed $10,000. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to, or has resulted in, serious personal injury or death, the Secretary may assess a civil penalty not to exceed $10,000 for each offense. Notwithstanding any other provision of this section (other than subparagraph (B)), except for recordkeeping violations, no civil penalty shall be assessed under this section against an employee for a violation unless the Secretary determines that such employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty not to exceed $1,000.

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

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

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

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

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

(B) In this paragraph, ''imminent hazard'' means any condition of vehicle, employee, or commercial motor vehicle operations which is likely to result in serious injury or death if not discontinued immediately.

(6) CRIMINAL PENALTIES.—

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

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

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

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

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

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

(8) Any aggrieved person who, after a hearing, is adversely affected by a final order issued under this section may, within 30 days, petition for review of the order in the United States

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

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

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

(11) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

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

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

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2435; Pub. L. 98–554, title II, § 213(b), Oct. 30, 1984, 98 Stat. 2842; Pub. L. 99–570, title XII, § 12012, Oct. 27, 1986, 100 Stat. 3207–184; Pub. L. 101–500, § 15(e)(2), Nov. 3, 1990, 104 Stat. 1220; Pub. L. 102–548, § 2(b), Oct. 28, 1992, 106 Stat. 3648; Pub. L. 103–272, §§ 4(j)(11)(D), 5(m)(11), July 5, 1994, 108 Stat. 1368, 1376; Pub. L. 104–287, § 5(4), Oct. 11, 1996, 110 Stat. 3389.)

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

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

AMENDMENTS

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).

REPORT; PENALTIES; EFFECTIVENESS

Section 213(d) of Pub. L. 98–554 directed Secretary of Transportation to conduct a study of effectiveness of civil and criminal penalties established by amendments made by section 213 of Pub. L. 98–554 in deterring violations of commercial motor vehicle safety regulations issued under title II of Pub. L. 98–554 and in effectively prosecuting such violations when they occur, which study was to examine the effectiveness of penalties in effect before Oct. 30, 1984, in comparison to the penalties established by the amendments made by title II of Pub. L. 98–554, and was to further investigate the need for, and make recommendations concerning, increased fine levels for civil and criminal penalties, and the need for additional categories of civil and criminal penalties to deter further, and prosecute effectively, violations of such commercial motor vehicle safety regulations, and further directed Secretary to submit to Congress a report on the findings of this study, together with legislative recommendations, not later than 2 years after Oct. 30, 1984.

§ 522. Reporting and record keeping violations

(a) A person required to make a report to the Secretary of Transportation, or make, prepare, or preserve a record, under section 504 of this title about transportation by rail carrier, that knowingly and willfully (1) makes a false entry in the report or record, (2) destroys, mutilates, changes, or by another means falsifies the record, (3) does not enter business related facts and transactions in the record, (4) makes, prepares, or preserves the record in violation of a regulation or order of the Secretary, or (5) files a false report or record with the Secretary, shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

(b) A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record with the Secretary, (6) knowingly and willfully makes a false or incomplete entry in that record about a business related fact or transaction, or (7) knowingly and willfully makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be fined not more than $5,000.

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2436.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
522	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89–670, §6(f)(2), 80 Stat. 940.
522(b)	49:304(a)(3) (last sentence) (related to ''Sec. 322(g)'').	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.

§ 523. Unlawful disclosure of information

(a) A motor carrier, or an officer, receiver, trustee, lessee, or employee of that carrier, or another person authorized by that carrier to receive information from that carrier, may not knowingly disclose to another person (except the shipper or consignee), and another person

may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

(b) This chapter does not prevent a motor carrier, motor carrier of migrant workers, or motor private carrier from giving information—

(1) in response to legal process issued under authority of a court of the United States or a State;

(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; and

(3) to another motor carrier, motor carrier of migrant workers, or motor private carrier, or its agent, to adjust mutual traffic accounts in the ordinary course of business.

(c) An employee of the Secretary of Transportation delegated to make an inspection under section 504 of this title who knowingly discloses information acquired during that inspection, except as directed by the Secretary, a court, or a judge of that court, shall be fined not more than $500, imprisoned for not more than 6 months, or both.

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2436.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
523	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89–670, §6(f)(2), 80 Stat. 940.
523(b)	49:304(a)(3) (last sentence) (related to ''Sec. 322(f)'').	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 knowingly and willfully tries to evade regulation of motor carriers under this chapter shall be fined at least $200 but not more than $500 for the first violation and at least $250 but not more than $2,000 for a subsequent violation.

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2437.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
524	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89–670, §6(f)(2), 80 Stat. 940.

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

Section 524	*49 U.S. Code*	*Revised Section*
	322(c) (related to evasion of regulation).	11906

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

The section does not apply to motor carriers of migrant workers and motor private carriers because 49:322(c) (related to evasion of regulation) only applies to motor carriers and 49:304(a)(3) and (3a) do not apply 49:322(c) (related to evasion of regulation) to motor carriers of migrant workers and motor private carriers.

§ 525. Disobedience to subpenas

A motor carrier, motor carrier of migrant workers, or motor private carrier not obeying a subpena or requirement of the Secretary of Transportation under this chapter to appear and testify or produce records shall be fined at least $100 but not more than $5,000, imprisoned for not more than one year, or both.

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2437.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
525	49:304(a)(3) (last sentence) (related to ''Sec. 305(d) (related to liability)'').	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.

HISTORICAL AND REVISION NOTES—CONTINUED

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

§ 526. General criminal penalty when specific penalty not provided

When another criminal penalty is not provided under a provision of this chapter, subchapter III of chapter 311 (except sections 31138 and 31139), or section 31502 of this title, a person that knowingly and willfully violates any of those provisions or a regulation or order of the Secretary of Transportation under any of those provisions, related to transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, shall be fined at least $100 but not more than $500 for the first violation and at least $200 but not more than $500 for a subsequent violation. A separate violation occurs each day the violation continues.

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2437; Pub. L. 98–554, title II, § 213(c), Oct. 30, 1984, 98 Stat. 2844; Pub. L. 103–272, § 5(m)(12), July 5, 1994, 108 Stat. 1377.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
526	49:304(a)(3) (last sentence) (related to ''Sec. 322(a)'').	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.
	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.
	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 526	*49 U.S. Code*	*Revised Section*
	322(a).	11914

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

The reference to a certificate, permit, or licence is omitted as not applicable to this chapter. The text of 49:304(a)(3) (last sentence 1st–7th words) and (3a) (last sentence 1st–5th words) is omitted as executed.

AMENDMENTS

1994—Pub. L. 103–272 substituted ''a provision of this chapter, subchapter III of chapter 311 (except sections 31138 and 31139), or section 31502 of this title, a person that knowingly and willfully violates any of those provisions or a regulation or order of the Secretary of Transportation under any of those provisions'' for ''this chapter, section 3102 of this title, or the Motor Carrier Safety Act of 1984, a person that knowingly and 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

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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

Section 2 of Pub. L. 104–88 provided that: ''Except as otherwise provided in this Act [see Tables for classification], this Act shall take effect on January 1, 1996.''

SAVINGS PROVISION

Section 204 of Pub. L. 104–88 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 App. U.S.C. 843 et seq.] or the Shipping Act, 1916 [46 App. U.S.C. 801 et seq.] 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

Section 101 of Pub. L. 104–88 provided that: ''The Interstate Commerce Commission is abolished.''

ORGANIZATION OF FUNCTIONS OF SURFACE TRANSPORTATION BOARD

Section 202 of title II of Pub. L. 104–88 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

Section 203 of Pub. L. 104–88 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 unobligated balances from user fees collected by the Commission during fiscal year 1996, may be used to pay for the closedown 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

Section 205 of Pub. L. 104–88 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 permitted 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.

11. National Transportation Safety Board 1101

CHAPTER 11—NATIONAL TRANSPORTATION SAFETY BOARD

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1101. Definitions.

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SUBCHAPTER IV—ENFORCEMENT AND PENALTIES

1151. Aviation enforcement.
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1153. Judicial review.
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AMENDMENTS

1996—Pub. L. 104–264, title IV, § 407(a)(2), title VII, § 702(a)(2), Oct. 9, 1996, 110 Stat. 3258, 3267, added items 1119 and 1136.

1994—Pub. L. 103–272, § 1(c), (d), July 5, 1994, 108 Stat. 745, added subtitle II (comprised of chapter 11, §§ 1101–1155) and struck out former subtitle II, except that chapter 31 (comprised of §§ 3101–3104) of subtitle II was redesignated and restated as chapter 315 (comprised of §§ 31501–31504) of subtitle VI, as enacted by Pub. L. 103–272, § 1(e).

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 329 of this title.

SUBCHAPTER I—GENERAL

§ 1101. Definitions

Section 40102(a) of this title applies to this chapter.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 746.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1101	(no source)	

A number of the source provisions of the chapter are taken from 49 App.:ch. 20. The text of 49 App.:ch. 20 contains general definitions, some of which are used in those source provisions.

This section is included to ensure that the identical definitions that are relevant are used without repeating them. The source provisions for the definitions are found in the revision note for section 40102(a) of the revised title.

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–291, title I, § 101, Oct. 11, 1996, 110 Stat. 3452, provided that: ''This title [amending sections 1114, 1115, and 1118 of this title] may be cited as the 'National Transportation Safety Board Amendments of 1996'.''

SUBCHAPTER II—ORGANIZATION AND ADMINISTRATIVE

§ 1111. General organization

(a) ORGANIZATION.—The National Transportation Safety Board is an independent establishment of the United States Government.

(b) APPOINTMENT OF MEMBERS.—The Board is composed of 5 members appointed by the President, by and with the advice and consent of the Senate. Not more than 3 members may be appointed from the same political party. At least 3 members shall be appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation.

(c) TERMS OF OFFICE AND REMOVAL.—The term of office of each member is 5 years. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, is appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified. The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

(d) CHAIRMAN AND VICE CHAIRMAN.—The President shall designate, by and with the advice and consent of the Senate, a Chairman of the Board. The President also shall designate a Vice Chairman of the Board. The terms of office of both the Chairman and Vice Chairman are 2 years. When the Chairman is absent or unable to serve or when the position of Chairman is vacant, the Vice Chairman acts as Chairman.

(e) DUTIES AND POWERS OF CHAIRMAN.—The Chairman is the chief executive and administrative officer of the Board. Subject to the general policies and decisions of the Board, the Chairman shall—

(1) appoint, supervise, and fix the pay of officers and employees necessary to carry out this chapter;

(2) distribute business among the officers, employees, and administrative units of the Board; and

(3) supervise the expenditures of the Board.

(f) QUORUM.—Three members of the Board are a quorum in carrying out duties and powers of the Board.

(g) OFFICES, BUREAUS, AND DIVISIONS.—The Board shall establish offices necessary to carry out this chapter, including an office to investigate and report on the safe transportation of hazardous material. The Board shall establish distinct and appropriately staffed bureaus, divisions, or offices to investigate and report on accidents involving each of the following modes of transportation:

(1) aviation.

(2) highway and motor vehicle.

(3) rail and tracked vehicle.

(4) pipeline.

(h) SEAL.—The Board shall have a seal that shall be judicially recognized.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 746.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1111(a)	49 App.:1902(a).	Jan. 3, 1975, Pub. L. 93–633, § 303(a), (b)(2)– (c), 88 Stat. 2167, 2168.
1111(b)	49 App.:1902(b)(1) (1st sentence words before comma, 2d–last sentences).	Jan. 3, 1975, Pub. L. 93–633, § 303(b)(1), 88 Stat. 2167; Oct. 14, 1982, Pub. L. 97–309, § 1 (1st sentence), 96 Stat. 1453.
1111(c)	49 App.:1902(b)(2).	
1111(d)	49 App.:1902(b)(1) (1st sentence words after comma), (3) (1st, 2d, 4th sentences).	
1111(e)	49 App.:1902(b)(3) (3d, last sentences), (c)(3).	
1111(f)	49 App.:1902(b)(4).	
1111(g)	49 App.:1902(b)(5), (c)(1).	
1111(h)	49 App.:1902(c)(2).	

In subsection (a), the words ''previously established within the Department of Transportation'' are omitted as unnecessary. The words ''in accordance with this section, on and after April 1, 1975'' are omitted as executed.

In subsection (c), the words ''except as otherwise provided in this paragraph'' are omitted as surplus. The

text of 49 App.:1902(b)(2) (4th sentence) is omitted as executed.

In subsection (d), the words ''On or before January 1, 1976'' are omitted as executed. The words ''(and thereafter as required)'' and ''(hereafter in this chapter referred to as the 'Chairman')'' are omitted as unnecessary.

In subsection (e), before clause (1), the words ''is the chief executive and administrative officer of the Board'' are substituted for ''shall be the chief executive officer of the Board and shall exercise the executive and administrative functions of the Board'' for clarity. The words ''Subject to the general policies and decisions of the Board, the Chairman shall'' are substituted for 49 App.:1902(b)(3) (last sentence) to eliminate unnecessary words. In clause (1), the words ''Subject to the civil service and classification laws'' are omitted as unnecessary because of title 5, United States Code, especially sections 3301, 5101, and 5331. The words ''the Board is authorized'' are omitted for consistency because the authority to appoint officers and employees is vested in the Chairman subject to the ''general policies and decisions of the Board'' as provided in the source provisions. The words ''including investigators, attorneys, and administrative law judges'' are omitted as covered by ''officers and employees''. The words ''carry out this chapter'' are substituted for ''carry out its powers and duties under this chapter'' to eliminate unnecessary words. In clause (3), the words ''expenditures of the Board'' are substituted for ''the use and expenditure of funds'' for clarity.

In subsection (f), the words ''duties and powers'' are substituted for ''function'' for consistency in the revised title and with other titles of the Code.

In subsection (g), the text of 49 App.:1902(c)(1) is omitted as unnecessary because of 40:ch. 10.

§ 1112. Special boards of inquiry on air transportation safety

(a) ESTABLISHMENT.—If an accident involves a substantial question about public safety in air transportation, the National Transportation Safety Board may establish a special board of inquiry composed of—

(1) one member of the Board acting as chairman; and

(2) 2 members representing the public, appointed by the President on notification of the establishment of the special board of inquiry.

(b) QUALIFICATIONS AND CONFLICTS OF INTEREST.—The public members of a special board of inquiry must be qualified by training and experience to participate in the inquiry and may not have a pecuniary interest in an aviation enterprise involved in the accident to be investigated.

(c) AUTHORITY.—A special board of inquiry has the same authority that the Board has under this chapter.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 747.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1112	49 App.:1443.	Aug. 23, 1958, Pub. L. 85–726, § 703, 72 Stat. 782.
	49 App.:1655(d) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, § 6(d) (1st sentence), 80 Stat. 938.
	49 App.:1903(a)(1)(A).	Jan. 3, 1975, Pub. L. 93–633, § 304(a)(1)(A), 88 Stat. 2168.

In subsection (c), the words ''when convened to investigate an accident certified to it by the National Transportation Safety Board'' are omitted as surplus.

§ 1113. Administrative

(a) GENERAL AUTHORITY.—(1) The National Transportation Safety Board, and when authorized by it, a member of the Board, an administrative law judge employed by or assigned to the Board, or an officer or employee designated by the Chairman of the Board, may conduct hearings to carry out this chapter, administer oaths, and require, by subpena or otherwise, necessary witnesses and evidence.

(2) A witness or evidence in a hearing under paragraph (1) of this subsection may be summoned or required to be produced from any place in the United States to the designated place of the hearing. A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(3) A subpena shall be issued under the signature of the Chairman or the Chairman's delegate but may be served by any person designated by the Chairman.

(4) If a person disobeys a subpena, order, or inspection notice of the Board, the Board may bring a civil action in a district court of the United States to enforce the subpena, order, or notice. An action under this paragraph may be brought in the judicial district in which the person against whom the action is brought resides, is found, or does business. The court may punish a failure to obey an order of the court to comply with the subpena, order, or notice as a contempt of court.

(b) ADDITIONAL POWERS.—(1) The Board may—

(A) procure the temporary or intermittent services of experts or consultants under section 3109 of title 5;

(B) make agreements and other transactions necessary to carry out this chapter without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

(C) use, when appropriate, available services, equipment, personnel, and facilities of a department, agency, or instrumentality of the United States Government on a reimbursable or other basis;

(D) confer with employees and use services, records, and facilities of State and local governmental authorities;

(E) appoint advisory committees composed of qualified private citizens and officials of the Government and State and local governments as appropriate;

(F) accept voluntary and uncompensated services notwithstanding another law;

(G) accept gifts of money and other property;

(H) make contracts with nonprofit entities to carry out studies related to duties and powers of the Board; and

(I) require that the departments, agencies, and instrumentalities of the Government, State and local governments, and governments of foreign countries provide appropriate consideration for the reasonable costs of goods and services supplied by the Board.

(2) The Board shall deposit in the Treasury amounts received under paragraph (1)(I) of this subsection to be credited to the appropriation of the Board.

(c) SUBMISSION OF CERTAIN COPIES TO CONGRESS.—When the Board submits to the President or the Director of the Office of Management and Budget a budget estimate, budget request, supplemental budget estimate, other budget information, a legislative recommendation, prepared testimony for congressional hearings, or comments on legislation, the Board must submit a copy to Congress at the same time. An officer, department, agency, or instrumentality of the Government may not require the Board to submit the estimate, request, information, recommendation, testimony, or comments to another officer, department, agency, or instrumentality of the Government for approval, comment, or review before being submitted to Congress.

(d) LIAISON COMMITTEES.—The Chairman may determine the number of committees that are appropriate to maintain effective liaison with other departments, agencies, and instrumentalities of the Government, State and local governmental authorities, and independent standard-setting authorities that carry out programs and activities related to transportation safety. The Board may designate representatives to serve on or assist those committees.

(e) INQUIRIES.—The Board, or an officer or employee of the Board designated by the Chairman, may conduct an inquiry to obtain information related to transportation safety after publishing notice of the inquiry in the Federal Register. The Board or designated officer or employee may require by order a department, agency, or instrumentality of the Government, a State or local governmental authority, or a person transporting individuals or property in commerce to submit to the Board a written report and answers to requests and questions related to a duty or power of the Board. The Board may prescribe the time within which the report and answers must be given to the Board or to the designated officer or employee. Copies of the report and answers shall be made available for public inspection.

(f) REGULATIONS.—The Board may prescribe regulations to carry out this chapter.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 747.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1113(a)	49 App.:1903(b)(1), (3).	Jan. 3, 1975, Pub. L. 93–633, § 304(a)(1)(A), (b)(1), (3), (4), (7)–(9), 88 Stat. 2168, 2169, 2170; July 19, 1988, Pub. L. 100–372, § 4, 102 Stat. 876.
1113(b)(1)(A)	49 App.:1441(b) (words before semicolon).	Aug. 23, 1958, Pub. L. 85–726, § 701(b), 72 Stat. 781.
	49 App.:1655(d) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, § 6(d) (1st sentence), 80 Stat. 938.
	49 App.:1903(a)(1)(A), (b)(6)(C).	
1113(b)(1)(B)	49 App.:1903(b)(4).	
1113(b)(1)(C)	49 App.:1441(b) (words after semicolon).	
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A).	
	49 App.:1903(b)(6)(A).	Jan. 3, 1975, Pub. L. 93–633, § 304(b)(6), 88 Stat. 2170; July 19, 1988, Pub. L. 100–372, § 5, 102 Stat. 877.
1113(b)(1)(D)–(I), (2).	49 App.:1903(b)(6)(B), (D)–(H).	
1113(c)	49 App.:1903(b)(7).	
1113(d)	49 App.:1903(b)(8).	
1113(e)	49 App.:1903(b)(9).	
1113(f)	49 App.:1903(b)(12).	Jan. 3, 1975, Pub. L. 93–633, § 304(b)(12), 88 Stat. 2171; July 19, 1988, Pub. L. 100–372, § 4, 102 Stat. 876; Nov. 28, 1990, Pub. L. 101–641, § 6, 104 Stat. 4656.

In subsection (a)(1), the words ''sit and act at such times and places'' are omitted as unnecessary. The word ''necessary'' is substituted for ''as the Board or such officer or employee deems advisable'' because it is more accurate.

In subsection (a)(2), the words ''the witness would have been'' are added for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (a)(4), the words ''If a person disobeys'' are substituted for ''In case of contumacy or refusal to obey'' for consistency in the revised title and with other titles of the Code. The words ''of the Board'' are substituted for ''of the Board, or of any duly designated employee thereof'' to eliminate unnecessary words. The words ''the Board may bring a civil action in a district court of the United States'' are substituted for ''such district court shall, upon the request of the Board, have jurisdiction'' for consistency in the revised title and because of 28:1331. The word ''forthwith'' is omitted as surplus. The words ''An action under this paragraph may be brought in the judicial district'' are added for clarity.

In subsection (b)(1)(A), the text of 49 App.:1441(b) (words before semicolon) is omitted as superseded by 49 App.:1903(b)(6)(C).

In subsection (b)(1)(B), the words ''make agreements and other transactions'' are substituted for ''enter into . . . such contracts, leases, cooperative agreements, or other transactions'' to eliminate unnecessary words. The words ''to carry out this chapter'' are substituted for ''in the conduct of the functions and the duties of the Board under this chapter'' for consistency. The words ''with any government entity or any person'' are omitted as surplus.

In subsection (b)(1)(C), the words ''Department of Transportation and of other'' are omitted as surplus. The words ''department, agency, or instrumentality of the United States Government'' are substituted for ''civilian or military agencies and instrumentalities of the Federal Government'' in 49 App.:1903(b)(6)(A) for consistency in the revised title and with other titles of the Code. The text of 49 App.:1441(b) (words after semicolon) is omitted as superseded by 49 App.:1903(b)(6)(A).

In subsection (b)(1)(D), the word ''available'' is omitted as surplus.

In subsection (b)(1)(E), the words ''one or more'' are omitted as surplus because the authority to appoint advisory committees is discretionary and unlimited on its face. The word ''appropriate'' is substituted for ''necessary or appropriate'' to eliminate unnecessary words. The words ''in accordance with the Federal Advisory Committee Act'' are omitted as surplus because that Act applies unless specifically excluded. (See 5 App. U.S.C.)

In subsection (b)(1)(G), the words ''gifts of money and other property'' are substituted for ''gifts or donations of money or property (real, personal, mixed, tangible, or intangible)'' to eliminate unnecessary words.

In subsection (b)(1)(H), the words ''public or private'' are omitted as surplus.

Subsection (b)(2) is substituted for ''and to apply the funds received to the Board's appropriations'' for clarity and consistency in the revised title and with other titles of the Code.

In subsection (c), the word ''submits'' is substituted for ''submits or transmits'' for consistency. The words ''Director of the Office of Management and Budget'' are

substituted for ''Office of Management and Budget'' because of 31:502(a).

In subsection (d), the word ''appropriate'' is substituted for ''necessary or appropriate'' to eliminate unnecessary words.

In subsection (e), the words ''officer or employee'' are substituted for ''employee'' for consistency in the revised title. The words ''by order'' are substituted for ''by special or general orders'' to eliminate unnecessary words. The word ''individuals'' is substituted for ''people'' for consistency in the revised title.

In subsection (f), the words ''prescribe regulations to carry out this chapter'' are substituted for ''rules and regulations as may be necessary to the exercise of its functions'' for consistency in the revised title and with other titles of the Code and because ''rule'' and ''regulation'' are synonymous.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1131, 1132 of this title.

§ 1114. Disclosure, availability, and use of information

(a) GENERAL.—Except as provided in subsections (b), (c), and (e) of this section, a copy of a record, information, or investigation submitted or received by the National Transportation Safety Board, or a member or employee of the Board, shall be made available to the public on identifiable request and at reasonable cost. This subsection does not require the release of information described by section 552(b) of title 5 or protected from disclosure by another law of the United States.

(b) TRADE SECRETS.—(1) The Board may disclose information related to a trade secret referred to in section 1905 of title 18 only—

(A) to another department, agency, or instrumentality of the United States Government when requested for official use;

(B) to a committee of Congress having jurisdiction over the subject matter to which the information is related, when requested by that committee;

(C) in a judicial proceeding under a court order that preserves the confidentiality of the information without impairing the proceeding; and

(D) to the public to protect health and safety after giving notice to any interested person to whom the information is related and an opportunity for that person to comment in writing, or orally in closed session, on the proposed disclosure, if the delay resulting from notice and opportunity for comment would not be detrimental to health and safety.

(2) Information disclosed under paragraph (1) of this subsection may be disclosed only in a way designed to preserve its confidentiality.

(3) PROTECTION OF VOLUNTARY SUBMISSION OF INFORMATION.—Notwithstanding any other provision of law, neither the Board, nor any agency receiving information from the Board, shall disclose voluntarily provided safety-related information if that information is not related to the exercise of the Board's accident or incident investigation authority under this chapter and if the Board finds that the disclosure of the information would inhibit the voluntary provision of that type of information.

(c) COCKPIT VOICE RECORDINGS AND TRANSCRIPTS.—(1) The Board may not disclose publicly any part of a cockpit voice recorder recording or transcript of oral communications by and between flight crew members and ground stations related to an accident or incident investigated by the Board. However, the Board shall make public any part of a transcript the Board decides is relevant to the accident or incident—

(A) if the Board holds a public hearing on the accident or incident, at the time of the hearing; or

(B) if the Board does not hold a public hearing, at the time a majority of the other factual reports on the accident or incident are placed in the public docket.

(2) This subsection does not prevent the Board from referring at any time to cockpit voice recorder information in making safety recommendations.

(d) DRUG TESTS.—(1) Notwithstanding section 503(e) of the Supplemental Appropriations Act, 1987 (Public Law 100–71, 101 Stat. 471), the Secretary of Transportation shall provide the following information to the Board when requested in writing by the Board:

(A) any report of a confirmed positive toxicological test, verified as positive by a medical review officer, conducted on an officer or employee of the Department of Transportation under post-accident, unsafe practice, or reasonable suspicion toxicological testing requirements of the Department, when the officer or employee is reasonably associated with the circumstances of an accident or incident under the investigative jurisdiction of the Board.

(B) any laboratory record documenting that the test is confirmed positive.

(2) Except as provided by paragraph (3) of this subsection, the Board shall maintain the confidentiality of, and exempt from disclosure under section 552(b)(3) of title 5—

(A) a laboratory record provided the Board under paragraph (1) of this subsection that reveals medical use of a drug allowed under applicable regulations; and

(B) medical information provided by the tested officer or employee related to the test or a review of the test.

(3) The Board may use a laboratory record made available under paragraph (1) of this subsection to develop an evidentiary record in an investigation of an accident or incident if—

(A) the fitness of the tested officer or employee is at issue in the investigation; and

(B) the use of that record is necessary to develop the evidentiary record.

(e) FOREIGN INVESTIGATIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, neither the Board, nor any agency receiving information from the Board, shall disclose records or information relating to its participation in foreign aircraft accident investigations; except that—

(A) the Board shall release records pertaining to such an investigation when the country conducting the investigation issues its final report or 2 years following the date of the accident, whichever occurs first; and

(B) the Board may disclose records and information when authorized to do so by the country conducting the investigation.

(2) SAFETY RECOMMENDATIONS.—Nothing in this subsection shall restrict the Board at any time from referring to foreign accident investigation information in making safety recommendations.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 749; Pub. L. 104–291, title I, §§102, 103, Oct. 11, 1996, 110 Stat. 3452.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1114(a)	49 App.:1905(a).	Jan. 3, 1975, Pub. L. 93–633, §306(a), (b), 88 Stat. 2172; Oct. 14, 1982, Pub. L. 97–309, §2, 96 Stat. 1453.
1114(b)	49 App.:1905(b).	
1114(c)	49 App.:1905(c).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §306(c); added Oct. 14, 1982, Pub. L. 97–309, §2, 96 Stat. 1453; restated Nov. 28, 1990, Pub. L. 101–641, §4, 104 Stat. 4654.
1114(d)(1)	49 App.:1903(b)(11)(A).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §304(b)(11); added Nov. 28, 1990, Pub. L. 101–641, §6, 104 Stat. 4656.
1114(d)(2)	49 App.:1903(b)(11)(B).	
1114(d)(3)	49 App.:1903(b)(11)(C).	

In subsection (a), the words ''record, information, or investigation'' are substituted for ''communication, document, investigation, or other report, or information'' to eliminate unnecessary words. The words ''of the United States'' are added for clarity.

In subsection (c)(1), before clause (A), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The word ''relevant'' is substituted for ''relevant and pertinent'' to eliminate unnecessary words.

In subsection (d), 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 (d)(2), before clause (A), the words ''maintain the confidentiality of'' are substituted for ''maintain in confidence'' for consistency in the revised title and with other titles of the Code. In clause (A), the words ''of a confirmed and verified toxicological test'' are omitted as unnecessary because of the restatement of the source provisions in paragraph (1) of this subsection.

In subsection (d)(3), the words ''laboratory record made available under paragraph (1) of this subsection'' are substituted for ''such a laboratory record'' for clarity.

REFERENCES IN TEXT

Section 503(e) of the Supplemental Appropriations Act, 1987, referred to in subsec. (d)(1), is section 503(e) of Pub. L. 100–71, which is set out as a note under section 7301 of Title 5, Government Organization and Employees.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–291, §102(1), substituted ''(b), (c), and (e)'' for ''(b) and (c)''.

Subsec. (b)(3). Pub. L. 104–291, §103, added par. (3).

Subsec. (e). Pub. L. 104–291, §102(2), added subsec. (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1154 of this title.

§ 1115. Training

(a) DEFINITION.—In this section, ''Institute'' means the Transportation Safety Institute of the Department of Transportation and any successor organization of the Institute.

(b) USE OF INSTITUTE SERVICES.—The National Transportation Safety Board may use, on a reimbursable basis, the services of the Institute. The Secretary of Transportation shall make the Institute available to—

(1) the Board for safety training of employees of the Board in carrying out their duties and powers; and

(2) other safety personnel of the United States Government, State and local governments, governments of foreign countries, interstate authorities, and private organizations the Board designates in consultation with the Secretary.

(c) FEES.—(1) Training at the Institute for safety personnel (except employees of the Government) shall be provided at a reasonable fee established periodically by the Board in consultation with the Secretary. The fee shall be paid directly to the Secretary, and the Secretary shall deposit the fee in the Treasury. The amount of the fee—

(A) shall be credited to the appropriate appropriation (subject to the requirements of any annual appropriation); and

(B) is an offset against any annual reimbursement agreement between the Board and the Secretary to cover all reasonable costs of providing training under this subsection that the Secretary incurs in operating the Institute.

(2) The Board shall maintain an annual record of offsets under paragraph (1)(B) of this subsection.

(d) TRAINING OF BOARD EMPLOYEES AND OTHERS.—The Board may conduct training of its employees in those subjects necessary for the proper performance of accident investigation. The Board may also authorize attendance at courses given under this subsection by other government personnel, personnel of foreign governments, and personnel from industry or otherwise who have a requirement for accident investigation training. The Board may require non-Board personnel to reimburse some or all of the training costs, and amounts so reimbursed shall be credited to the appropriation of the ''National Transportation Safety Board, Salaries and Expenses'' as offsetting collections.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 750; Pub. L. 104–291, title I, §104, Oct. 11, 1996, 110 Stat. 3453.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1115(a)	(no source).	Jan. 3, 1975, Pub. L. 93–633, §304(b)(10), 88 Stat. 2156; added July 19, 1988, Pub. L. 100–372, §4, 102 Stat. 876.
1115(b)	49 App.:1903(b)(10) (1st, 2d sentences).	
1115(c)	49 App.:1903(b)(10) (3d–last sentences).	

In subsections (b) and (c), the words ''or successor organization'' are omitted as unnecessary because of subsection (a) of this section.

In subsection (b), before clause (1), the words ''(established for the purpose of developing courses and conducting training in safety and security for all modes of transportation)'' are omitted as surplus. In clause (1), the words ''carrying out their duties and powers'' are

substituted for ''in the performance of all of their authorized functions'' for consistency in the revised title and with other titles of the United States Code. In clause (2), the words ''of the United States Government, State and local governments, governments of foreign countries, interstate authorities, and private organizations'' are substituted for ''of Federal, interstate, State, local, and foreign governments and nongovernmental organizations'' for clarity and consistency in the revised title and with other titles of the Code.

In subsection (c)(1), before clause (A), the words ''the Secretary shall deposit the fee in the Treasury'' are added for clarity. In clause (B), the words ''direct and indirect'' are omitted as surplus. The word ''administration'' is omitted as being included in ''operating''. The text of 49 App.:1903(b)(10) (last sentence) is omitted because 5:ch. 41 applies to the National Transportation Safety Board by its own terms.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–291 added subsec. (d).

§ 1116. Reports and studies

(a) PERIODIC REPORTS.—The National Transportation Safety Board shall report periodically to Congress, departments, agencies, and instrumentalities of the United States Government and State and local governmental authorities concerned with transportation safety, and other interested persons. The report shall—

(1) advocate meaningful responses to reduce the likelihood of transportation accidents similar to those investigated by the Board; and

(2) propose corrective action to make the transportation of individuals as safe and free from risk of injury as possible, including action to minimize personal injuries that occur in transportation accidents.

(b) STUDIES, INVESTIGATIONS, AND OTHER REPORTS.—The Board also shall—

(1) carry out special studies and investigations about transportation safety, including avoiding personal injury;

(2) examine techniques and methods of accident investigation and periodically publish recommended procedures for accident investigations;

(3) prescribe requirements for persons reporting accidents and aviation incidents that—

(A) may be investigated by the Board under this chapter; or

(B) involve public aircraft (except aircraft of the armed forces and the intelligence agencies);

(4) evaluate, examine the effectiveness of, and publish the findings of the Board about the transportation safety consciousness of other departments, agencies, and instrumentalities of the Government and their effectiveness in preventing accidents; and

(5) evaluate the adequacy of safeguards and procedures for the transportation of hazardous material and the performance of other departments, agencies, and instrumentalities of the Government responsible for the safe transportation of that material.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 751.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1116(a)	49 App.:1441(a)(3), (5) (related to reducing accidents).	Aug. 23, 1958, Pub. L. 85–726, § 701(a)(3), (5), 72 Stat. 781.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
	49 App.:1655(d) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, § 6(d) (1st sentence), 80 Stat. 938.
	49 App.:1903(a)(1)(A), (3).	Jan. 3, 1975, Pub. L. 93–633, § 304(a)(1)(A), (3)–(5), (7), (8), 88 Stat. 2168, 2169.
1116(b)(1)	49 App.:1441(a)(5) (related to studies).	
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A), (4).	
1116(b)(2)–(5).	49 App.:1903(a)(5).	
	49 App.:1903(a)(6).	Jan. 3, 1975, Pub. L. 93–633, § 304(a)(6), 88 Stat. 2169; Nov. 3, 1981, Pub. L. 97–74, § 4, 95 Stat. 1065; Dec. 30, 1987, Pub. L. 100–223, § 311(a), 101 Stat. 1528.
	49 App.:1903(a)(7), (8).	

In subsection (a)(1), the word ''recommending'' is omitted as being included in ''advocate'' in 49 App.:1903(a)(3). The word ''recurrence'' is omitted as surplus. The text of 49 App.:1441(a)(3) and (5) (related to reducing accidents) is omitted as superseded by 49 App.:1903(a)(3).

In subsection (b)(1), the words ''carry out'' are substituted for ''initiate and conduct'' in 49 App.:1903(a)(4) for consistency in the revised title and with other titles of the United States Code. The text of 49 App.:1441(a)(5) (related to studies) is omitted as superseded by 49 App.:1903(a)(4).

In subsection (b)(2), the word ''examine'' is substituted for ''assess and reassess'' for clarity. The words ''prepare and'' are omitted as surplus.

In subsection (b)(3), the words ''by regulation'' are omitted as unnecessary because of section 1113(f) of the revised title.

In subsection (b)(4), the word ''effectiveness'' is substituted for ''efficacy'' for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1131 of this title.

§ 1117. Annual report

The National Transportation Safety Board shall submit a report to Congress on July 1 of each year. The report shall include—

(1) a statistical and analytical summary of the transportation accident investigations conducted and reviewed by the Board during the prior calendar year;

(2) a survey and summary of the recommendations made by the Board to reduce the likelihood of recurrence of those accidents together with the observed response to each recommendation; and

(3) a detailed appraisal of the accident investigation and accident prevention activities of other departments, agencies, and instrumentalities of the United States Government and State and local governmental authorities having responsibility for those activities under a law of the United States or a State.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 751; Pub. L. 104–66, title II, § 2151, Dec. 21, 1995, 109 Stat. 731.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1117	49 App.:1904.	Jan. 3, 1975, Pub. L. 93–633, § 305, 88 Stat. 2171.

In this section, before clause (1), the words ''but need not be limited to'' are omitted as surplus. In clause (2), the words ''in such detail as the Board deems advisable'' are omitted as surplus. In clause (3), the words ''departments, agencies, and instrumentalities of the United States Government and State and local governmental authorities'' are substituted for ''other government agencies'' for clarity and consistency in the revised title and with other titles of the United States Code. The words ''for those activities'' are substituted for ''in this field'' for clarity. In clause (4), the word ''evaluation'' is substituted for ''appraisal and evaluation and review'' because it is inclusive.

AMENDMENTS

1995—Par. (4). Pub. L. 104–66 struck out par. (4) which read as follows: ''an evaluation conducted every 2 years of transportation safety and recommendations for legislative and administrative action and change.''

§ 1118. Authorization of appropriations

(a) IN GENERAL.—There is authorized to be appropriated for the purposes of this chapter $37,580,000 for fiscal year 1994, $44,000,000 for fiscal year 1995, $45,100,000 for fiscal year 1996, $42,400,00[1] for fiscal year 1997, $44,400,000 for fiscal year 1998, and $46,600,000 for fiscal year 1999..[1] Such sums shall remain available until expended.

(b) EMERGENCY FUND.—The Board has an emergency fund of $1,000,000 available for necessary expenses of the Board, not otherwise provided for, for accident investigations. The following amounts may be appropriated to the fund:

(1) $1,000,000 to establish the fund.

(2) amounts equal to amounts expended annually out of the fund.

(c) AVAILABILITY OF AMOUNTS.—Amounts appropriated under this section remain available until expended.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 752; Pub. L. 103–411, § 2, Oct. 25, 1994, 108 Stat. 4236; Pub. L. 104–291, title I, § 105, Oct. 11, 1996, 110 Stat. 3453.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1118(a)	49 App.:1907(a) (1st–6th, last sentences).	Jan. 3, 1975, Pub. L. 93–633, § 309(a), 88 Stat. 2173; Oct. 11, 1976, Pub. L. 94–481, 90 Stat. 2080; Sept. 11, 1978, Pub. L. 95–363, § 2, 92 Stat. 597; Nov. 3, 1981, Pub. L. 97–74, § 2, 95 Stat. 1065; June 6, 1983, Pub. L. 98–37, 97 Stat. 204; July 19, 1988, Pub. L. 100–372, § 2, 102 Stat. 876; Nov. 28, 1990, Pub. L. 101–641, § 2, 104 Stat. 4654.
1118(b)	49 App.:1907(b) (1st, 2d sentences).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 309(b); added July 19, 1988, Pub. L. 100–372, § 2(b), 102 Stat. 876.
1118(c)	49 App.:1907(a) (7th sentence), (b) (last sentence).	

[1] So in original.

In subsection (a), the words ''to the National Transportation Safety Board'' are added for clarity and consistency in the revised title. References to the fiscal years ending June 30, 1975, through September 30, 1992, are omitted as obsolete.

In subsection (b)(2), the words ''amounts equal to amounts expended annually out of the fund'' are substituted for ''to replenish the fund annually'' for clarity.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–291 struck out ''and'' after ''1995,'' and inserted '', $42,400,00 for fiscal year 1997, $44,400,000 for fiscal year 1998, and $46,600,000 for fiscal year 1999.'' before period at end of first sentence.

1994—Subsec. (a). Pub. L. 103–411 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''Not more than $38,800,000 may be appropriated to the National Transportation Safety Board for the fiscal year ending September 30, 1993, to carry out this chapter.''

§ 1119. Accident and safety data classification and publication

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this section, the National Transportation Safety Board shall, in consultation and coordination with the Administrator of the Federal Aviation Administration, develop a system for classifying air carrier accident data maintained by the Board.

(b) REQUIREMENTS FOR CLASSIFICATION SYSTEM.—

(1) IN GENERAL.—The system developed under this section shall provide for the classification of accident and safety data in a manner that, in comparison to the system in effect on the date of the enactment of this section, provides for safety-related categories that provide clearer descriptions of accidents associated with air transportation, including a more refined classification of accidents which involve fatalities, injuries, or substantial damage and which are only related to the operation of an aircraft.

(2) PUBLIC COMMENT.—In developing a system of classification under paragraph (1), the Board shall provide adequate opportunity for public review and comment.

(3) FINAL CLASSIFICATION.—After providing for public review and comment, and after consulting with the Administrator, the Board shall issue final classifications. The Board shall ensure that air travel accident covered under this section is classified in accordance with the final classifications issued under this section for data for calendar year 1997, and for each subsequent calendar year.

(4) PUBLICATION.—The Board shall publish on a periodic basis accident and safety data in accordance with the final classifications issued under paragraph (3).

(5) RECOMMENDATIONS OF THE ADMINISTRATOR.—The Administrator may, from time to time, request the Board to consider revisions (including additions to the classification system developed under this section). The Board shall respond to any request made by the Administrator under this section not later than 90 days after receiving that request.

(Added Pub. L. 104–264, title IV, § 407(a)(1), Oct. 9, 1996, 110 Stat. 3257.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (a) and (b)(1), is the date of enactment of Pub. L. 104–264, which was approved Oct. 9, 1996.

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

SUBCHAPTER III—AUTHORITY

§ 1131. General authority

(a) GENERAL.—(1) The National Transportation Safety Board shall investigate or have investigated (in detail the Board prescribes) and establish the facts, circumstances, and cause or probable cause of—

(A) an aircraft accident the Board has authority to investigate under section 1132 of this title or an aircraft accident involving a public aircraft as defined by section 40102(a)(37) of this title other than an aircraft operated by the Armed Forces or by an intelligence agency of the United States;

(B) a highway accident, including a railroad grade crossing accident, the Board selects in cooperation with a State;

(C) a railroad accident in which there is a fatality or substantial property damage, or that involves a passenger train;

(D) a pipeline accident in which there is a fatality, substantial property damage, or significant injury to the environment;

(E) a major marine casualty (except a casualty involving only public vessels) occurring on the navigable waters or territorial sea of the United States, or involving a vessel of the United States, under regulations prescribed jointly by the Board and the head of the department in which the Coast Guard is operating; and

(F) any other accident related to the transportation of individuals or property when the Board decides—

(i) the accident is catastrophic;

(ii) the accident involves problems of a recurring character; or

(iii) the investigation of the accident would carry out this chapter.

(2) An investigation by the Board under paragraph (1)(A)–(D) or (F) of this subsection has priority over any investigation by another department, agency, or instrumentality of the United States Government. The Board shall provide for appropriate participation by other departments, agencies, or instrumentalities in the investigation. However, those departments, agencies, or instrumentalities may not participate in the decision of the Board about the probable cause of the accident.

(3) This section and sections 1113, 1116(b), 1133, and 1134(a) and (c)–(e) of this title do not affect the authority of another department, agency, or instrumentality of the Government to investigate an accident under applicable law or to obtain information directly from the parties involved in, and witnesses to, the accident. The Board and other departments, agencies, and instrumentalities shall ensure that appropriate information developed about the accident is exchanged in a timely manner.

(b) ACCIDENTS INVOLVING PUBLIC VESSELS.—(1) The Board or the head of the department in which the Coast Guard is operating shall investigate and establish the facts, circumstances, and cause or probable cause of a marine accident involving a public vessel and any other vessel. The results of the investigation shall be made available to the public.

(2) Paragraph (1) of this subsection and subsection (a)(1)(E) of this section do not affect the responsibility, under another law of the United States, of the head of the department in which the Coast Guard is operating.

(c) ACCIDENTS NOT INVOLVING GOVERNMENT MISFEASANCE OR NONFEASANCE.—(1) When asked by the Board, the Secretary of Transportation may—

(A) investigate an accident described under subsection (a) or (b) of this section in which misfeasance or nonfeasance by the Government has not been alleged; and

(B) report the facts and circumstances of the accident to the Board.

(2) The Board shall use the report in establishing cause or probable cause of an accident described under subsection (a) or (b) of this section.

(d) ACCIDENTS INVOLVING PUBLIC AIRCRAFT.—The Board, in furtherance of its investigative duties with respect to public aircraft accidents under subsection (a)(1)(A) of this section, shall have the same duties and powers as are specified for civil aircraft accidents under sections 1132(a), 1132(b), and 1134(b)(2) of this title.

(e) ACCIDENT REPORTS.—The Board shall report on the facts and circumstances of each accident investigated by it under subsection (a) or (b) of this section. The Board shall make each report available to the public at reasonable cost.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 752; Pub. L. 103–411, § 3(c), Oct. 25, 1994, 108 Stat. 4237.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1131(a)(1)	49 App.:1903(a)(1)(A)–(E) (less last sentence of (E)), (F).	Jan. 3, 1975, Pub. L. 93–633, § 304(a)(1)(A)–(F), 88 Stat. 2168; Oct. 24, 1992, Pub. L. 102–508, § 303, 106 Stat. 3307.
1131(a)(2)	49 App.:1903(a)(1) (2d, 3d sentences).	Jan. 3, 1975, Pub. L. 93–633, § 304(a)(1) (less (A)–(F)), 88 Stat. 2168; Nov. 3, 1981, Pub. L. 97–74, § 3, 95 Stat. 1065.
1131(a)(3)	49 App.:1903(a)(1) (4th, 5th sentences).	
1131(b)	49 App.:1903(a)(1)(E) (last sentence).	
1131(c)	49 App.:1441(f).	Aug. 23, 1958, Pub. L. 85–726, § 701(a)(4), (f), 72 Stat. 781.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
	49 App.:1655(d) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, § 6(d) (1st sentence), 80 Stat. 938.
	49 App.:1903(a)(1)(A) (6th, last sentences).	
1131(d)	49 App.:1441(a)(4).	
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1903(a)(2).	Jan. 3, 1975, Pub. L. 93–633, § 304(a)(2), 88 Stat. 2168; July 19, 1988, Pub. L. 100–372, § 3(a), 102 Stat. 876.

In this section, the word ''conditions'' is omitted as being included in ''circumstances''. The words ''head of the department in which the Coast Guard is operating'' are substituted for ''Secretary of the department in which the Coast Guard is operating'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(1)(A), the words ''the Board has authority to investigate under section 1132 of this title'' are substituted for ''which is within the scope of the functions, powers, and duties transferred from the Civil Aeronautics Board under section 1655(d) of this Appendix pursuant to title VII of the Federal Aviation Act of 1958, as amended [49 App. U.S.C. 1441 et seq.]'' because of the restatement.

In subsection (a)(1)(F), before subclause (i), the word ''decides'' is substituted for ''in the judgment of'' for clarity. The word ''individuals'' is substituted for ''people'' for consistency in the revised title. In subclause (iii), the words ''the investigation of'' are added as being more precise.

In subsection (a)(3), the word ''developed'' is substituted for ''obtained or developed'' to eliminate unnecessary words.

In subsection (b)(2), the word ''affect'' is substituted for ''eliminate or diminish'' for clarity.

In subsection (c), the text of 49 App.:1441(f) is omitted as superseded by 49 App.:1903(a)(1) (6th, last sentences).

In subsection (d), the words ''in writing'' in 49 App.:1903(a)(2) are omitted as surplus. The words ''by it'' are added for clarity. The text of 49 App.:1441(a)(4) is omitted as superseded by 49 App.:1903(a)(1)(A) and (2).

AMENDMENTS

1994—Subsec. (a)(1)(A). Pub. L. 103–411, § 3(c)(1), inserted before semicolon at end ''or an aircraft accident involving a public aircraft as defined by section 40102(a)(37) of this title other than an aircraft operated by the Armed Forces or by an intelligence agency of the United States''.

Subsec. (d), (e). Pub. L. 103–411, § 3(c)(2), added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1994 AMENDMENT

Section 3(d) of Pub. L. 103–411 provided that: ''The amendments made by subsections (a) and (c) [amending this section and section 40102 of this title] shall take effect on the 180th day following the date of the enactment of this Act [Oct. 25, 1994].''

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

§ 1132. Civil aircraft accident investigations

(a) GENERAL AUTHORITY.—(1) The National Transportation Safety Board shall investigate—

(A) each accident involving civil aircraft; and

(B) with the participation of appropriate military authorities, each accident involving both military and civil aircraft.

(2) A person employed under section 1113(b)(1) of this title that is conducting an investigation or hearing about an aircraft accident has the same authority to conduct the investigation or hearing as the Board.

(b) NOTIFICATION AND REPORTING.—The Board shall prescribe regulations governing the notification and reporting of accidents involving civil aircraft.

(c) PARTICIPATION OF SECRETARY.—The Board shall provide for the participation of the Secretary of Transportation in the investigation of an aircraft accident under this chapter when participation is necessary to carry out the duties and powers of the Secretary. However, the Secretary may not participate in establishing probable cause.

(d) ACCIDENTS INVOLVING ONLY MILITARY AIRCRAFT.—If an accident involves only military aircraft and a duty of the Secretary is or may be involved, the military authorities shall provide for the participation of the Secretary. In any other accident involving only military aircraft, the military authorities shall give the Board or Secretary information the military authorities decide would contribute to the promotion of air safety.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 753.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1132(a)(1)	49 App.:1441(a)(2).	Aug. 23, 1958, Pub. L. 85–726, §§ 701(a)(1), (2), (c) (1st sentence), (g), 702, 72 Stat. 781, 782.
	49 App.:1442(a).	
	49 App.:1655(d) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, § 6(d) (1st sentence), 80 Stat. 938.
	49 App.:1903(a)(1)(A).	Jan. 3, 1975, Pub. L. 93–633, § 304(a)(1)(A), 88 Stat. 2168.
1132(a)(2)	49 App.:1441(c) (1st sentence).	
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A).	
1132(b)	49 App.:1441(a)(1).	
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A).	
1132(c)	49 App.:1441(g).	
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A).	
1132(d)	49 App.:1442(b), (c).	
	49 App.:1655(c)(1), (d) (1st sentence).	
	49 App.:1903(a)(1)(A).	

In subsection (a)(1)(A), the words ''and report the facts, conditions, and circumstances related to each accident and the probable cause thereof'' in 49 App.:1441(a)(2) are omitted as unnecessary because of section 1131(d) of the revised title.

In subsection (a)(1)(B), the words ''provide for'' in 49 App.:1442(a) are omitted as surplus.

In subsection (a)(2), the words ''any member of the National Transportation Safety Board or any officer or employee of the National Transportation Safety Board'' in 49 App.:1441(c) are omitted as unnecessary because of sections 1113 and 1134 of the revised title.

In subsections (c) and (d), the words ''Secretary of Transportation'' and ''Secretary'' are substituted for ''Administrator'' in sections 701(g) and 702(b) and (c) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 782) for consistency. Section 6(c)(1) of the Department of Transportation Act (Public Law 89–670, 80 Stat. 938) transferred all duties and powers of the Federal Aviation Agency and the Administrator to the Secretary of Transportation. However, the Secretary was to carry out certain provisions through the Administrator. In addition, various laws enacted since then have vested duties and powers in the Administrator.

All provisions of law the Secretary is required to carry out through the Administrator are included in 49:106(g).

In subsection (c), the words ''and his representatives'' in 49 App.:1441(g) are omitted because of 49:322(b). The words ''when participation is necessary to carry out the duties and powers'' are substituted for ''In order to assure the proper discharge . . . of his duties and responsibilities'' to eliminate unnecessary words. The words ''or his representatives'' are omitted because of 49:322(b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 1131, 1151, 1152, 1155 of this title.

§ 1133. Review of other agency action

The National Transportation Safety Board shall review on appeal—

(1) the denial, amendment, modification, suspension, or revocation of a certificate issued by the Secretary of Transportation under section 44703, 44709, or 44710 of this title;

(2) the revocation of a certificate of registration under section 44106 of this title;

(3) a decision of the head of the department in which the Coast Guard is operating on an appeal from the decision of an administrative law judge denying, revoking, or suspending a license, certificate, document, or register in a proceeding under section 6101, 6301, or 7503, chapter 77, or section 9303 of title 46; and

(4) under section 46301(d)(5) of this title, an order imposing a penalty under section 46301.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 754.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1133(1)–(3) ...	49 App.:1903(a)(9).	Jan. 3, 1975, Pub. L. 93–633, § 304(a)(9), 88 Stat. 2169; Oct. 19, 1984, Pub. L. 98–499, § 4(b), 98 Stat. 2315.
1133(4)	(no source).	

In clause (1), the word ''certificate'' is substituted for ''operating certificate'' for consistency in the revised title. The words ''or license'' are omitted as unnecessary because only certificates are issued under the sections cited in this section.

In clause (3), the words ''head of the department in which the Coast Guard is operating'' are substituted for ''Commandant of the Coast Guard'' for consistency with 14:5 and 46:2101(34).

Clause (4) is added to reflect all the appellate responsibilities of the National Transportation Safety Board.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1131 of this title.

§ 1134. Inspections and autopsies

(a) ENTRY AND INSPECTION.—An officer or employee of the National Transportation Safety Board—

(1) on display of appropriate credentials and written notice of inspection authority, may enter property where a transportation accident has occurred or wreckage from the accident is located and do anything necessary to conduct an investigation; and

(2) during reasonable hours, may inspect any record, process, control, or facility related to an accident investigation under this chapter.

(b) INSPECTION, TESTING, PRESERVATION, AND MOVING OF AIRCRAFT AND PARTS.—(1) In investigating an aircraft accident under this chapter, the Board may inspect and test, to the extent necessary, any civil aircraft, aircraft engine, propeller, appliance, or property on an aircraft involved in an accident in air commerce.

(2) Any civil aircraft, aircraft engine, propeller, appliance, or property on an aircraft involved in an accident in air commerce shall be preserved, and may be moved, only as provided by regulations of the Board.

(c) AVOIDING UNNECESSARY INTERFERENCE AND PRESERVING EVIDENCE.—In carrying out subsection (a)(1) of this section, an officer or employee may examine or test any vehicle, vessel, rolling stock, track, or pipeline component. The examination or test shall be conducted in a way that—

(1) does not interfere unnecessarily with transportation services provided by the owner or operator of the vehicle, vessel, rolling stock, track, or pipeline component; and

(2) to the maximum extent feasible, preserves evidence related to the accident, consistent with the needs of the investigation and with the cooperation of that owner or operator.

(d) EXCLUSIVE AUTHORITY OF BOARD.—Only the Board has the authority to decide on the way in which testing under this section will be conducted, including decisions on the person that will conduct the test, the type of test that will be conducted, and any individual who will witness the test. Those decisions are committed to the discretion of the Board. The Board shall make any of those decisions based on the needs of the investigation being conducted and, when applicable, subsections (a), (c), and (e) of this section.

(e) PROMPTNESS OF TESTS AND AVAILABILITY OF RESULTS.—An inspection, examination, or test under subsection (a) or (c) of this section shall be started and completed promptly, and the results shall be made available.

(f) AUTOPSIES.—(1) The Board may order an autopsy to be performed and have other tests made when necessary to investigate an accident under this chapter. However, local law protecting religious beliefs related to autopsies shall be observed to the extent consistent with the needs of the accident investigation.

(2) With or without reimbursement, the Board may obtain a copy of an autopsy report performed by a State or local official on an individual who died because of a transportation accident investigated by the Board under this chapter.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 754.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1134(a)	49 App.:1903(b)(2) (1st sentence words before 3d comma, 3d sentence).	Jan. 3, 1975, Pub. L. 93–633, § 304(b)(2), 88 Stat. 2170; Nov. 3, 1981, Pub. L. 97–74, § 5, 95 Stat. 1065; Nov. 28, 1990, Pub. L. 101–641, § 3, 104 Stat. 4654.
1134(b)	49 App.:1441(c) (2d sentence), (d).	Aug. 23, 1958, Pub. L. 85–726, § 701(c) (2d, last sentences), (d), 72 Stat. 781; Oct. 15, 1962, Pub. L. 87–810, §§ 1, 2, 76 Stat. 921.
	49 App.:1655(d) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, § 6(d) (1st sentence), 80 Stat. 938.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1903(a)(1)(A).	Jan. 3, 1975, Pub. L. 93–633, § 304(a)(1)(A), (b)(5), 88 Stat. 2168, 2170.
1134(c)	49 App.:1903(b)(2) (1st sentence words after 3d comma, 2d sentence).	
1134(d)	49 App.:1903(b)(2) (5th, last sentences).	
1134(e)	49 App.:1903(b)(2) (4th sentence).	
1134(f)	49 App.:1441(c) (last sentence). 49 App.:1655(d) (1st sentence). 49 App.:1903(a)(1)(A), (b)(5).	

In subsection (a), before clause (1), the word ''officer'' is added for consistency in the revised title.

In subsection (b)(1), the words ''investigating an aircraft accident'' are substituted for ''carrying out its duties'' in 49 App.:1441(c) for clarity. The words ''inspect and test'' are substituted for ''examine and test'' for consistency in the revised title and with other titles of the United States Code.

In subsection (c), before clause (1), the words ''In carrying out subsection (a)(1) of this section, an officer or employee'' are added because of the restatement. The words ''or any part of any such item'' are omitted as surplus. The words ''when such examination or testing is determined to be required for purposes of such investigation'' are omitted as unnecessary because of the words ''do anything necessary to conduct an investigation'' in subsection (a)(1) of this section. In clause (1), the word ''obstruct'' is omitted as being included in ''interfere''.

In subsection (d), the word ''individuals'' is substituted for ''persons'' the 2d time that word is used for clarity. The words ''The Board shall make any of those decisions'' are substituted for ''and shall be made'' because of the restatement.

In subsection (e), the word ''promptly'' is substituted for ''with reasonable promptness'' to eliminate unnecessary words.

In subsection (f)(1), the words ''In the case of any fatal accident'' in 49 App.:1441(c) are omitted as surplus. The words ''to examine the remains of any deceased person aboard the aircraft at the time of the accident, who dies as a result of the accident'' are omitted as unnecessary because of the authority of the Board to conduct autopsies.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1131, 1151, 1152, 1155 of this title.

§ 1135. Secretary of Transportation's responses to safety recommendations

(a) GENERAL.—When the National Transportation Safety Board submits a recommendation about transportation safety to the Secretary of Transportation, the Secretary shall give a formal written response to each recommendation not later than 90 days after receiving the recommendation. The response shall indicate whether the Secretary intends—

(1) to carry out procedures to adopt the complete recommendation;

(2) to carry out procedures to adopt a part of the recommendation; or

(3) to refuse to carry out procedures to adopt the recommendation.

(b) TIMETABLE FOR COMPLETING PROCEDURES AND REASONS FOR REFUSALS.—A response under subsection (a)(1) or (2) of this section shall include a copy of a proposed timetable for completing the procedures. A response under subsection (a)(2) of this section shall detail the reasons for the refusal to carry out procedures on the remainder of the recommendation. A response under subsection (a)(3) of this section shall detail the reasons for the refusal to carry out procedures.

(c) PUBLIC AVAILABILITY.—The Board shall make a copy of each recommendation and response available to the public at reasonable cost.

(d) REPORTS TO CONGRESS.—The Secretary shall submit to Congress on January 1 of each year a report containing each recommendation on transportation safety made by the Board to the Secretary during the prior year and a copy of the Secretary's response to each recommendation.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 755.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1135(a), (b)	49 App.:1906(a) (less last sentence).	Jan. 3, 1975, Pub. L. 93–633, § 307(a), 88 Stat. 2172; Nov. 3, 1981, Pub. L. 97–74, § 6, 95 Stat. 1066; July 19, 1988, Pub. L. 100–372, § 3(b), 102 Stat. 876.
1135(c)	49 App.:1906(a) (last sentence).	
1135(d)	49 App.:1906(b).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 307(b); added Nov. 3, 1981, Pub. L. 97–74, § 6, 95 Stat. 1066.

In subsections (a) and (b), the words ''carry out'' are substituted for ''initiate and conduct'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(1), the word ''complete'' is substituted for ''in full'' for consistency in the revised title.

§ 1136. Assistance to families of passengers involved in aircraft accidents

(a) IN GENERAL.—As soon as practicable after being notified of an aircraft accident within the United States involving an air carrier or foreign air carrier and resulting in a major loss of life, the Chairman of the National Transportation Safety Board shall—

(1) designate and publicize the name and phone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the air carrier or foreign air carrier and the families; and

(2) designate an independent nonprofit organization, with experience in disasters and posttrauma communication with families, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

(b) RESPONSIBILITIES OF THE BOARD.—The Board shall have primary Federal responsibility for facilitating the recovery and identification of fatally-injured passengers involved in an accident described in subsection (a).

(c) RESPONSIBILITIES OF DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) shall have the following responsibilities with respect to the families of passengers involved in the accident:

(1) To provide mental health and counseling services, in coordination with the disaster response team of the air carrier or foreign air carrier involved.

(2) To take such actions as may be necessary to provide an environment in which the families may grieve in private.

(3) To meet with the families who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all affected families periodically thereafter until such time as the organization, in consultation with the director of family support services designated for the accident under subsection (a)(1), determines that further assistance is no longer needed.

(4) To communicate with the families as to the roles of the organization, government agencies, and the air carrier or foreign air carrier involved with respect to the accident and the post-accident activities.

(5) To arrange a suitable memorial service, in consultation with the families.

(d) PASSENGER LISTS.—

(1) REQUESTS FOR PASSENGER LISTS.—

(A) REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES.—It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the air carrier or foreign air carrier involved in the accident a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the aircraft involved in the accident.

(B) REQUESTS BY DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) may request from the air carrier or foreign air carrier involved in the accident a list described in subparagraph (A).

(2) USE OF INFORMATION.—The director of family support services and the organization may not release to any person information on a list obtained under paragraph (1) but may provide information on the list about a passenger to the family of the passenger to the extent that the director of family support services or the organization considers appropriate.

(e) CONTINUING RESPONSIBILITIES OF THE BOARD.—In the course of its investigation of an accident described in subsection (a), the Board shall, to the maximum extent practicable, ensure that the families of passengers involved in the accident—

(1) are briefed, prior to any public briefing, about the accident, its causes, and any other findings from the investigation; and

(2) are individually informed of and allowed to attend any public hearings and meetings of the Board about the accident.

(f) USE OF AIR CARRIER RESOURCES.—To the extent practicable, the organization designated for an accident under subsection (a)(2) shall coordinate its activities with the air carrier or foreign air carrier involved in the accident so that the resources of the carrier can be used to the greatest extent possible to carry out the organization's responsibilities under this section.

(g) PROHIBITED ACTIONS.—

(1) ACTIONS TO IMPEDE THE BOARD.—No person (including a State or political subdivision) may impede the ability of the Board (including the director of family support services designated for an accident under subsection (a)(1)), or an organization designated for an accident under subsection (a)(2), to carry out its responsibilities under this section or the ability of the families of passengers involved in the accident to have contact with one another.

(2) UNSOLICITED COMMUNICATIONS.—In the event of an accident involving an air carrier providing interstate or foreign air transportation, no unsolicited communication concerning a potential action for personal injury or wrongful death may be made by an attorney or any potential party to the litigation to an individual injured in the accident, or to a relative of an individual involved in the accident, before the 30th day following the date of the accident.

(h) DEFINITIONS.—In this section, the following definitions apply:

(1) AIRCRAFT ACCIDENT.—The term ''aircraft accident'' means any aviation disaster regardless of its cause or suspected cause.

(2) PASSENGER.—The term ''passenger'' includes an employee of an air carrier aboard an aircraft.

(Added Pub. L. 104–264, title VII, §702(a)(1), Oct. 9, 1996, 110 Stat. 3265.)

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1155, 41113, 41313 of this title.

SUBCHAPTER IV—ENFORCEMENT AND PENALTIES

§ 1151. Aviation enforcement

(a) CIVIL ACTIONS BY BOARD.—The National Transportation Safety Board may bring a civil action in a district court of the United States against a person to enforce section 1132, 1134(b) or (f)(1)(related to an aircraft accident), or 1155(a) of this title or a regulation prescribed or order issued under any of those sections. An action under this subsection may be brought in the judicial district in which the person does business or the violation occurred.

(b) CIVIL ACTIONS BY ATTORNEY GENERAL.—On request of the Board, the Attorney General may bring a civil action in an appropriate court—

(1) to enforce section 1132, 1134(b) or (f)(1)(related to an aircraft accident), or 1155(a) of this title or a regulation prescribed or order issued under any of those sections; and

(2) to prosecute a person violating those sections or a regulation prescribed or order issued under any of those sections.

(c) PARTICIPATION OF BOARD.—On request of the Attorney General, the Board may participate in a civil action to enforce section 1132, 1134(b) or (f)(1)(related to an aircraft accident), or 1155(a) of this title.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 756.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1151(a)	49 App.:1487(a) (related to CAB).	Aug. 23, 1958, Pub. L. 85–726, §§ 1007 (related to CAB), 1008 (related to CAB), 72 Stat. 796.
	49 App.:1655(d) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, § 6(d) (1st sentence), 80 Stat. 938.
	49 App.:1903(a)(1)(A).	Jan. 3, 1975, Pub. L. 93–633, § 304(a)(1)(A), 88 Stat. 2168.
1151(b)	49 App.:1487(b) (related to CAB).	
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A).	
1151(c)	49 App.:1488 (related to CAB).	
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A).	

In this section, the words ''section 1132, 1134(b) or (f)(1) (related to an aircraft accident), or 1155(a) of this title'' are substituted for ''issued under this chapter'' and ''provisions of this chapter'' because those sections restate the relevant provisions of 49 App.:ch. 20 carried out by the National Transportation Safety Board.

In subsections (a) and (b), the word ''rule'' is omitted as being synonymous with ''regulation''. The word ''requirement'' is omitted as being included in ''order''. The words ''or any term, condition, or limitation of any certificate or permit'' are omitted because the National Transportation Safety Board does not have authority to issue certificates or permits.

In subsection (a), the words ''their duly authorized agents'' are omitted as surplus. The words ''may bring a civil action'' are substituted for ''may apply'' in 49 App.:1487(a) for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''An action under this subsection may be brought in the judicial district in which'' are substituted for ''for any district wherein'' for clarity. The text of 49 App.:1487(a) (words after semicolon) is omitted as unnecessary because of rule 81(b) of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (b), before clause (1), the words ''Attorney General'' are substituted for ''any district attorney of the United States'' in 49 App.:1487(b) because of 28:509. The words ''to whom the Board or Secretary of Transportation may apply'' are omitted as surplus. The words ''may bring a civil action'' are substituted for ''is authorized to institute . . . all necessary proceedings'' for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''under the direction of the Attorney General'' are omitted as unnecessary because of 28:516. The text of 49 App.:1487(b) (words after last comma) is omitted as obsolete.

In subsection (c), the words ''civil action'' are substituted for ''proceeding in court'' for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

§ 1152. Joinder and intervention in aviation proceedings

A person interested in or affected by a matter under consideration in a proceeding or a civil action to enforce section 1132, 1134(b) or (f)(1) (related to an aircraft accident), or 1155(a) of this title, or a regulation prescribed or order issued under any of those sections, may be joined as a party or permitted to intervene in the proceeding or civil action.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 756.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1152	49 App.:1489.	Aug. 23, 1958, Pub. L. 85–726, § 1009, 72 Stat. 796.
	49 App.:1655(d) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, § 6(d) (1st sentence), 80 Stat. 938.
	49 App.:1903(a)(1)(A).	Jan. 3, 1975, Pub. L. 93–633, § 304(a)(1)(A), 88 Stat. 2168.

The words ''civil action'' are substituted for ''proceedings . . . begun originally in any court of the United States'' for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''section 1132, 1134(b) or (f)(1) (related to an aircraft accident), or 1155(a) of this title'' are substituted for ''the provisions of this chapter'' in 49 App.:1489 because 49 App.:1489 is taken from 49 App.:ch. 20 and the sections in quotations restate the relevant provisions of 49 App.:ch. 20 carried out by the National Transportation Safety Board. The remaining relevant provisions of 49 App.:ch. 20 are restated in part A of subtitle VII of the revised title, and provisions comparable to this section are included as section 46109 of the revised title. The word ''rule'' is omitted as being synonymous with ''regulation''. The word ''requirement'' is omitted as included in ''order''. The words ''or any term, condition, or limitation of any certificate or permit'' are omitted because the Board does not have authority to issue certificates or permits. The words ''may be joined as a party or permitted to intervene'' are substituted for ''it shall be lawful to include as parties, or to permit the intervention of'' for clarity. The text of 49 App.:1489 (words after semicolon) is omitted as surplus.

§ 1153. Judicial review

(a) GENERAL.—The appropriate court of appeals of the United States or the United States Court of Appeals for the District of Columbia Circuit may review a final order of the National Transportation Safety Board under this chapter. A person disclosing a substantial interest in the order may apply for review by filing a petition not later than 60 days after the order of the Board is issued.

(b) PERSONS SEEKING JUDICIAL REVIEW OF AVIATION MATTERS.—(1) A person disclosing a substantial interest in an order related to an aviation matter issued by the Board under this chapter may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 60 days after the order is issued. The court may allow the petition to be filed after the 60 days only if there was a reasonable ground for not filing within that 60-day period.

(2) When a petition is filed under paragraph (1) of this subsection, the clerk of the court immediately shall send a copy of the petition to the Board. The Board shall file with the court a record of the proceeding in which the order was issued.

(3) When the petition is sent to the Board, the court has exclusive jurisdiction to affirm,

amend, modify, or set aside any part of the order and may order the Board to conduct further proceedings. After reasonable notice to the Board, the court may grant interim relief by staying the order or taking other appropriate action when cause for its action exists. Findings of fact by the Board, if supported by substantial evidence, are conclusive.

(4) In reviewing an order under this subsection, the court may consider an objection to an order of the Board only if the objection was made in the proceeding conducted by the Board or if there was a reasonable ground for not making the objection in the proceeding.

(5) A decision by a court under this subsection may be reviewed only by the Supreme Court under section 1254 of title 28.

(c) ADMINISTRATOR SEEKING JUDICIAL REVIEW OF AVIATION MATTERS.—When the Administrator of the Federal Aviation Administration decides that an order of the Board under section 44709 or 46301(d)(5) of this title will have a significant adverse impact on carrying out this chapter related to an aviation matter, the Administrator may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 756.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1153(a)	49 App.:1655(d) (last sentence). 49 App.:1903(d).	Oct. 15, 1966, Pub. L. 89–670, § 6(d), 80 Stat. 938. Jan. 3, 1975, Pub. L. 93–633, § 304(d), 88 Stat. 2171.
1153(b)(1)	49 App.:1486(a), (b) (as 1486(a), (b) relates to CAB). 49 App.:1655(d) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1006(a), (b), (e), (f) (as § 1006(a), (b), (e), (f) relates to CAB), 72 Stat. 795.
1153(b)(2)	49 App.:1486(c) (related to CAB). 49 App.:1655(d) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1006(c) (related to CAB), 72 Stat. 795; restated June 29, 1960, Pub. L. 86–546, § 1, 74 Stat. 255.
1153(b)(3)	49 App.:1486(d), (e) (1st sentence) (as 1486(d), (e) (1st sentence) relates to CAB). 49 App.:1655(d) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1006(d) (related to CAB), 72 Stat. 795; restated Sept. 13, 1961, Pub. L. 87–225, § 2, 75 Stat. 497.
1153(b)(4)	49 App.:1486(e) (last sentence related to CAB). 49 App.:1655(d) (1st sentence).	
1153(b)(5)	49 App.:1486(f) (related to CAB). 49 App.:1655(d) (1st sentence).	
1153(c)	49 App.:1429(a) (8th–last sentences related to Administrator under subch. VII).	Aug. 23, 1958, Pub. L. 85–726, § 609(a) (8th–last sentences related to Administrator under title VII), 72 Stat. 779; Nov. 18, 1971, Pub. L. 92–159, § 2(a), 85 Stat. 481; Aug. 26, 1992, Pub. L. 102–345, § 3(a)(2), 106 Stat. 925.
	49 App.:1471(a)(3)(D)(v) (related to Administrator under subch. VII).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 901(a)(3)(D)(v) (related to Administrator under title VII); added Nov. 18, 1988, Pub. L. 100–690, § 7208(b), 102 Stat. 4429; restated Aug. 26, 1992, Pub. L. 102–345, § 2(a), 106 Stat. 923.

HISTORICAL AND REVISION NOTES—CONTINUED

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

In subsection (a), the text of 49 App.:1903(d) (last sentence) is omitted as unnecessary because 5:ch. 7 applies by its own terms. The words ''final order'' are substituted for ''order, affirmative or negative'' in 49 App.:1903(d) and ''Decisions of the National Transportation Safety Board made pursuant to the exercise of the functions, powers, and duties enumerated in this subsection shall be administratively final'' in 49 App.:1655(d) to eliminate unnecessary words. The words ''is issued'' are substituted for ''after the entry'' for consistency in the revised title and with other titles of the United States Code. The text of 49 App.:1655(d) (last sentence words after last comma) is omitted as unnecessary because of 49 App.:1903(d).

In subsection (b)(1), the words ''affirmative or negative'' are omitted as surplus. The words ''related to an aviation matter'' are added because the source provisions being restated only apply to aviation matters. The words ''is issued'' are substituted for ''the entry of'' for consistency in the revised title and with other titles of the Code.

In subsection (b)(2), the words ''if any'' are omitted as surplus. The words ''of the proceeding'' are added for clarity. The words ''complained of'' and ''as provided in section 2112 of title 28'' are omitted as surplus.

In subsection (b)(3), the word ''amend'' is added for consistency in the revised title. The word ''interim'' is substituted for ''interlocutory'' for clarity. The words ''taking other appropriate action'' are substituted for ''by such mandatory or other relief as may be appropriate'' for clarity and to eliminate unnecessary words.

In subsection (b)(4), the words ''made in the proceeding conducted by'' are substituted for ''urged before'' for clarity.

In subsection (c), the source provisions are combined to eliminate unnecessary words and are restated in this chapter to alert the reader to the authority of the Administrator of the Federal Aviation Administration to seek judicial review of an order of the National Transportation Safety Board under section 44709 or 46301(d) of the revised title that the Administrator decides will have a significant adverse impact on carrying out source provisions restated in this chapter that are derived from title VII of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 781).

§ 1154. Discovery and use of cockpit voice and other material

(a) TRANSCRIPTS AND RECORDINGS.—(1) Except as provided by this subsection, a party in a judicial proceeding may not use discovery to obtain—

(A) any part of a cockpit voice recorder transcript that the National Transportation Safety Board has not made available to the public under section 1114(c) of this title; and

(B) a cockpit voice recorder recording.

(2)(A) Except as provided in paragraph (4)(A) of this subsection, a court may allow discovery by a party of a cockpit voice recorder transcript if, after an in camera review of the transcript, the court decides that—

(i) the part of the transcript made available to the public under section 1114(c) of this title does not provide the party with sufficient information for the party to receive a fair trial; and

(ii) discovery of additional parts of the transcript is necessary to provide the party with

sufficient information for the party to receive a fair trial.

(B) A court may allow discovery, or require production for an in camera review, of a cockpit voice recorder transcript that the Board has not made available under section 1114(c) of this title only if the cockpit voice recorder recording is not available.

(3) Except as provided in paragraph (4)(A) of this subsection, a court may allow discovery by a party of a cockpit voice recorder recording if, after an in camera review of the recording, the court decides that—

(A) the parts of the transcript made available to the public under section 1114(c) of this title and to the party through discovery under paragraph (2) of this subsection do not provide the party with sufficient information for the party to receive a fair trial; and

(B) discovery of the cockpit voice recorder recording is necessary to provide the party with sufficient information for the party to receive a fair trial.

(4)(A) When a court allows discovery in a judicial proceeding of a part of a cockpit voice recorder transcript not made available to the public under section 1114(c) of this title or a cockpit voice recorder recording, the court shall issue a protective order—

(i) to limit the use of the part of the transcript or the recording to the judicial proceeding; and

(ii) to prohibit dissemination of the part of the transcript or the recording to any person that does not need access to the part of the transcript or the recording for the proceeding.

(B) A court may allow a part of a cockpit voice recorder transcript not made available to the public under section 1114(c) of this title or a cockpit voice recorder recording to be admitted into evidence in a judicial proceeding, only if the court places the part of the transcript or the recording under seal to prevent the use of the part of the transcript or the recording for purposes other than for the proceeding.

(5) This subsection does not prevent the Board from referring at any time to cockpit voice recorder information in making safety recommendations.

(b) REPORTS.—No part of a report of the Board, related to an accident or an investigation of an accident, may be admitted into evidence or used in a civil action for damages resulting from a matter mentioned in the report.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 757.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1154(a)	49 App.:1905(c)(3), (d).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 306(c)(3), (d); added Oct. 14, 1982, Pub. L. 97–309, § 2, 96 Stat. 1453; restated Nov. 28, 1990, Pub. L. 101–641, § 4, 104 Stat. 4655.
1154(b)	49 App.:1441(e).	Aug. 23, 1958, Pub. L. 85–726, § 701(e), 72 Stat. 781.
	49 App.:1655(d) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, § 6(d) (1st sentence), 80 Stat. 938.
	49 App.:1903(a)(1)(A), (c).	Jan. 3, 1975, Pub. L. 93–633, § 304(a)(1)(A), (c), 88 Stat. 2168, 2171.

In subsection (a), the word ''transcript'' is substituted for ''transcriptions'' for clarity.

In subsection (a)(1)(A), the words ''that the National Transportation Safety Board has not made available to the public'' are substituted for ''other than such portions made available to the public by the Board'' for clarity.

In subsection (a)(2)(B), the words ''prepared by or under the direction of the Board'' are omitted as unnecessary and for consistency with the source provisions restated in this subsection.

In subsection (b), the words ''civil action'' are substituted for ''suit or action'' in 49 App.:1441(e) and 1903(c) for consistency with the Federal Rules of Civil Procedure (28 App. U.S.C.).

§ 1155. Aviation penalties

(a) CIVIL PENALTY.—(1) A person violating section 1132, section 1134(b), section 1134(f)(1), or section 1136(g) (related to an aircraft accident) of this title or a regulation prescribed or order issued under any of those sections is liable to the United States Government for a civil penalty of not more than $1,000. A separate violation occurs for each day a violation continues.

(2) This subsection does not apply to a member of the armed forces of the United States or an employee of the Department of Defense subject to the Uniform Code of Military Justice when the member or employee is performing official duties. The appropriate military authorities are responsible for taking necessary disciplinary action and submitting to the National Transportation Safety Board a timely report on action taken.

(3) The Board may compromise the amount of a civil penalty imposed under this subsection.

(4) 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) A civil penalty under this subsection may be collected by bringing a civil action against the person liable for the penalty. The action shall conform as nearly as practicable to a civil action in admiralty.

(b) CRIMINAL PENALTY.—A person that knowingly and without authority removes, conceals, or withholds a part of a civil aircraft involved in an accident, or property on the aircraft at the time of the accident, shall be fined under title 18, imprisoned for not more than 10 years, or both.

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

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1155(a)(1), (2).	49 App.:1471(a)(1) (related to subchapter VII).	Aug. 23, 1958, Pub. L. 85–726, § 901(a)(1) (related to title VII), 72 Stat. 783; restated July 10, 1962, Pub. L. 87–528, § 12, 76 Stat. 149; Aug. 5, 1974, Pub. L. 93–366, § 107, 88 Stat. 414; Jan. 3, 1975, Pub. L. 93–633, § 113(b), 88 Stat. 2162.
	49 App.:1655(d) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, § 6(d) (1st sentence), 80 Stat. 938.
	49 App.:1903(a)(1)(A).	Jan. 3, 1975, Pub. L. 93–633, § 304(a)(1)(A), 88 Stat. 2168.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1155(a)(3), (4).	49 App.:1471(a)(2) (related to subchapter VII).	Aug. 23, 1958, Pub. L. 85–726, §901(a)(2) (related to title VII), 72 Stat. 784; July 10, 1962, Pub. L. 87–528, §12, 76 Stat. 150; restated Oct. 24, 1978, Pub. L. 95–504, §35(b), 92 Stat. 1740.
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A).	
1155(a)(5)	49 App.:1473(b)(1).	Aug. 23, 1958, Pub. L. 85–726, §903(b)(1), 72 Stat. 786; Oct. 24, 1978, Pub. L. 95–504, §36, 92 Stat. 1741.
	49 App.:1473(b)(4).	Aug. 23, 1958, Pub. L. 85–726, §903(b)(4), 72 Stat. 787.
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A).	
1155(b)	49 App.:1472(p).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(p); added Oct. 15, 1962, Pub. L. 87–810, §4, 76 Stat. 921; Aug. 5, 1974, Pub. L. 93–366, §103(b), 88 Stat. 410; Dec. 30, 1987, Pub. L. 100–223, §204(e), 101 Stat. 1520.

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

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

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

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

REFERENCES IN TEXT

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

PRIOR PROVISIONS

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

AMENDMENTS

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

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1151, 1152 of this title.

SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS

Chapter		Sec.
51.	**Transportation of Hazardous Material**	**5101**
53.	**Mass Transportation**	**5301**
55.	**Intermodal Transportation**	**5501**
57.	**Sanitary Food Transportation**	**5701**
59.	**Intermodal Safe Container Transportation**	**5901**

CHAPTER 51—TRANSPORTATION OF HAZARDOUS MATERIAL

Sec.
5101. Purpose.
5102. Definitions.
5103. General regulatory authority.
5104. Representation and tampering.
5105. Transporting certain highly radioactive material.
5106. Handling criteria.
5107. Hazmat employee training requirements and grants.
5108. Registration.
5109. Motor carrier safety permits.
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5111. Rail tank cars.
5112. Highway routing of hazardous material.
5113. Unsatisfactory safety rating.
5114. Air transportation of ionizing radiation material.
5115. Training curriculum for the public sector.
5116. Planning and training grants, monitoring, and review.
5117. Exemptions and exclusions.
5118. Inspectors.
5119. Uniform forms and procedures.
5120. International uniformity of standards and requirements.
5121. Administrative.
5122. Enforcement.
5123. Civil penalty.
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5125. Preemption.
5126. Relationship to other laws.
5127. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 521, 5710, 5908, 20109, 20111, 20114, 31146, 31305 of this title; title 18 section 844; title 42 sections 6912, 6921, 6923, 9656.

§5101. Purpose

The purpose of this chapter is to provide adequate protection against the risks to life and property inherent in the transportation of hazardous material in commerce by improving the regulatory and enforcement authority of the Secretary of Transportation.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 759.)

HISTORICAL AND REVISION NOTES

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

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

SHORT TITLE OF 1996 AMENDMENT

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

SHORT TITLE OF 1994 AMENDMENT

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

BUY AMERICAN

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

''(a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available under this title [see Short Title of 1994 Amendment note above] may be expended in violation of sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c [41 U.S.C. 10a, 10b, former 10b–1]; popularly known as the 'Buy American Act'), which are applicable to those funds.

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

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

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

''(c) PROHIBITION OF CONTRACTS.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this title, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

''(d) RECIPROCITY.—

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

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

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

§ 5102. Definitions

In this chapter—

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

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

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

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

(3) ''hazmat employee''—

(A) means an individual—

(i) employed by a hazmat employer; and

(ii) who during the course of employment directly affects hazardous material transportation safety as the Secretary decides by regulation;

(B) includes an owner-operator of a motor vehicle transporting hazardous material in commerce; and

(C) includes an individual, employed by a hazmat employer, who during the course of employment—

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

(ii) manufactures, reconditions, or tests containers, drums, and packagings represented as qualified for use in transporting hazardous material;

(iii) prepares hazardous material for transportation;

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

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

(4) ''hazmat employer''—

(A) means a person using at least one employee of that person in connection with—

(i) transporting hazardous material in commerce;

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

(iii) manufacturing, reconditioning, or testing containers, drums, and packagings represented as qualified for use in transporting hazardous material;

(B) includes an owner-operator of a motor vehicle transporting hazardous material in commerce; and

(C) includes a department, agency, or instrumentality of the United States Government, or an authority of a State, political subdivision of a State, or Indian tribe, carrying out an activity described in subclause (A)(i), (ii), or (iii) of this clause (4).

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

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

(7) ''motor carrier'' means a motor carrier, motor private carrier, and freight forwarder as those terms are defined in section 13102 of this title.

(8) ''national response team'' means the national response team established under the na-

tional contingency plan established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605).

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

(A) includes a government, Indian tribe, or authority of a government or tribe offering hazardous material for transportation in commerce or transporting hazardous material to further a commercial enterprise; but

(B) does not include—

(i) the United States Postal Service; and

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

(10) ''public sector employee''—

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

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

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

(11) ''State'' means—

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

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

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

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

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 759; Pub. L. 103–311, title I, §117(a)(1), Aug. 26, 1994, 108 Stat. 1678; Pub. L. 104–88, title III, §308(d), Dec. 29, 1996, 109 Stat. 947.)

HISTORICAL AND REVISION NOTES

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

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

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

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

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

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

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

AMENDMENTS

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

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31301 of this title.

§ 5103. General regulatory authority

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

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

(A) apply to a person—

(i) transporting hazardous material in commerce;

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

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

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

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

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 761; Pub. L. 103–311, title I, §117(a)(2), Aug. 26, 1994, 108 Stat. 1678; Pub. L. 103–429, §6(3), Oct. 31, 1994, 108 Stat. 4378.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

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

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

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

PUB. L. 103–429

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

AMENDMENTS

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

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

EFFECTIVE DATE OF 1994 AMENDMENT

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

SAFE PLACEMENT OF TRAIN CARS

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

FIBER DRUM PACKAGING

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

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

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

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

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

''(c) STUDY.—

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

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

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

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

''(d) SECRETARIAL ACTION.—By September 30, 1997, the Secretary shall issue final regulations to determine what standards should apply to fiber drum packaging with a removable head for transportation of liquid hazardous materials (with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) after September 30, 1997. In issuing such regulations, the Secretary shall give full and substantial consideration to the results of the study conducted in subsection (c).''

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

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

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

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

''(d) LIMITATIONS.—

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

''(2) Nothing in this section shall be construed to prohibit the Secretary of Transportation from issuing

or enforcing regulations for the international transportation of hazardous materials.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5102, 5117, 5120, 5125, 31101, 31106, 31132, 31136, 31301, 31310, 40113 of this title; title 8 section 1288; title 46 section 2101.

§ 5104. Representation and tampering

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

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

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

(b) TAMPERING.—A person may not alter, remove, destroy, or otherwise tamper unlawfully with—

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

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

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

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

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

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

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

PUB. L. 103–429

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

AMENDMENTS

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

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

EFFECTIVE DATE OF 1994 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5117, 5120, 5124, 5125 of this title; title 8 section 1288.

§ 5105. Transporting certain highly radioactive material

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

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

(c) SAFE RAIL TRANSPORTATION REGULATIONS.—Not later than November 16, 1992, after considering the results of the study conducted under subsection (b) of this section, the Secretary of Transportation shall prescribe amendments to existing regulations that the Secretary considers appropriate to provide for the safe rail transportation of high-level radioactive waste and spent nuclear fuel, including trains operated only for transporting high-level radioactive waste and spent nuclear fuel.

(d) ROUTES AND MODES STUDY.—Not later than November 16, 1991, the Secretary of Transportation shall conduct a study to decide which factors, if any, shippers and carriers should consider when selecting routes and modes that would enhance overall public safety related to the transportation of high-level radioactive waste and spent nuclear fuel. The study shall include—

(1) notice and opportunity for public comment; and

(2) an assessment of the degree to which at least the following affect the overall public safety of the transportation:

(A) population densities.

(B) types and conditions of modal infrastructures (including highways, railbeds, and waterways).

(C) quantities of high-level radioactive waste and spent nuclear fuel.

(D) emergency response capabilities.

(E) exposure and other risk factors.

(F) terrain considerations.

(G) continuity of routes.

(H) available alternative routes.

(I) environmental impact factors.

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

by an authorized United States Government inspector or according to appropriate State procedures.

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

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 762.)

HISTORICAL AND REVISION NOTES

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

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

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

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

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5118 of this title.

§ 5106. Handling criteria

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

(1) a minimum number of personnel;

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

(3) the kind and frequency of inspections;

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

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

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

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 763.)

HISTORICAL AND REVISION NOTES

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

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5107 of this title; title 8 section 1288.

§ 5107. Hazmat employee training requirements and grants

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

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

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

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

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

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

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

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

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

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

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

(5) appropriate emergency response and communication procedures for dealing with an ac-

cident or incident involving hazardous material transportation.

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

(7) applicable hazardous material transportation regulations.

(8) personal protection techniques.

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

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

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

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

(e) TRAINING GRANTS.—The Secretary shall, subject to the availability of funds under section 5127(c)(3), make grants for training instructors to train hazmat employees under this section. A grant under this subsection shall be made to a nonprofit hazmat employee organization that demonstrates—

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

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

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

(2) An action of the Secretary of Transportation under subsections (a)–(d) of this section and sections 5106, 5108(a)–(g)(1) and (h), and 5109 of this title is not an exercise, under section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), of statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

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

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 763; Pub. L. 103–311, title I, §§106, 119(c)(1)–(3), Aug. 26, 1994, 108 Stat. 1674, 1680.)

HISTORICAL AND REVISION NOTES

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

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

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

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

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

In subsection (d), before clause (1), the words ''take such actions as may be necessary to'' are omitted as surplus. In clauses (1) and (2), the words ''(and amendments thereto)'' are omitted as surplus. In clause (1), the words ''Secretary of Labor'' are substituted for ''Occupational Safety and Health Administration of the Department of Labor'' because of 29:551.

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

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

AMENDMENTS

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

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

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5127 of this title; title 8 section 1288.

§ 5108. Registration

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

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

(B) more than 25 kilograms of a class A or B explosive in a motor vehicle, rail car, or transport container.

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

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

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

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

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

(B) a person manufacturing, fabricating, marking, maintaining, reconditioning, repairing, or testing a package or container the person represents, marks, certifies, or sells for use in transporting in commerce hazardous material the Secretary designates.

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

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

(b) FORM, CONTENTS, AND LIMITATION ON FILINGS.—(1) A registration statement under subsection (a) of this section shall be in the form and contain information the Secretary of Transportation requires by regulation. The Secretary may use existing forms of the Department of Transportation and the Environmental Protection Agency to carry out this subsection. The statement shall include—

(A) the name and principal place of business of the registrant;

(B) a description of each activity the registrant carries out for which filing a statement under subsection (a) of this section is required; and

(C) each State in which the person carries out the activity.

(2) A person carrying out more than one activity, or an activity at more than one location, for which filing is required only has to file one registration statement to comply with subsection (a) of this section.

(c) FILING DEADLINES AND AMENDMENTS.—(1) Each person required to file a registration statement under subsection (a) of this section must file the first statement not later than March 31, 1992. The Secretary of Transportation may extend that date to September 30, 1992, for activities referred to in subsection (a)(1) of this section. A person shall renew the statement periodically consistent with regulations the Secretary prescribes, but not more than once each year and not less than once every 5 years.

(2) The Secretary of Transportation shall decide by regulation when and under what circumstances a registration statement must be amended and the procedures to follow in amending the statement.

(d) SIMPLIFYING THE REGISTRATION PROCESS.—The Secretary of Transportation may take necessary action to simplify the registration process under subsections (a)–(c) of this section and to minimize the number of applications, documents, and other information a person is required to file under this chapter and other laws of the United States.

(e) COOPERATION WITH ADMINISTRATOR.—The Administrator of the Environmental Protection Agency shall assist the Secretary of Transportation in carrying out subsections (a)–(g)(1) and (h) of this section by providing the Secretary with information the Secretary requests to carry out the objectives of subsections (a)–(g)(1) and (h).

(f) AVAILABILITY OF STATEMENTS.—The Secretary of Transportation shall make a registration statement filed under subsection (a) of this section available for inspection by any person for a fee the Secretary establishes. However, this subsection does not require the release of information described in section 552(f)[1] of title 5 or otherwise protected by law from disclosure to the public.

(g) FEES.—(1) The Secretary of Transportation may establish, impose, and collect from a person required to file a registration statement under subsection (a) of this section a fee necessary to pay for the costs of the Secretary in processing the statement.

(2)(A) In addition to a fee established under paragraph (1) of this subsection, the Secretary of Transportation shall establish and impose by regulation and collect an annual fee. Subject to subparagraph (B) of this paragraph, the fee shall be at least $250 but not more than $5,000 from each person required to file a registration statement under this section. The Secretary shall determine the amount of the fee under this paragraph on at least one of the following:

(i) gross revenue from transporting hazardous material.

(ii) the type of hazardous material transported or caused to be transported.

(iii) the amount of hazardous material transported or caused to be transported.

(iv) the number of shipments of hazardous material.

[1] So in original. Probably should be section ''552(b)''.

(v) the number of activities that the person carries out for which filing a registration statement is required under this section.

(vi) the threat to property, individuals, and the environment from an accident or incident involving the hazardous material transported or caused to be transported.

(vii) the percentage of gross revenue derived from transporting hazardous material.

(viii) the amount to be made available to carry out sections 5108(g)(2), 5115, and 5116 of this title.

(ix) other factors the Secretary considers appropriate.

(B) The Secretary of Transportation shall adjust the amount being collected under this paragraph to reflect any unexpended balance in the account established under section 5116(i) of this title. However, the Secretary is not required to refund any fee collected under this paragraph.

(C) The Secretary of Transportation shall transfer to the Secretary of the Treasury amounts the Secretary of Transportation collects under this paragraph for deposit in the account the Secretary of the Treasury establishes under section 5116(i) of this title.

(h) MAINTAINING PROOF OF FILING AND PAYMENT OF FEES.—The Secretary of Transportation may prescribe regulations requiring a person required to file a registration statement under subsection (a) of this section to maintain proof of the filing and payment of fees imposed under subsection (g) of this section.

(i) RELATIONSHIP TO OTHER LAWS.—(1) Chapter 35 of title 44 does not apply to an activity of the Secretary of Transportation under subsections (a)–(g)(1) and (h) of this section.

(2)(A) This section does not apply to an employee of a hazmat employer.

(B) Subsections (a)–(h) of this section do not apply to a department, agency, or instrumentality of the United States Government, an authority of a State or political subdivision of a State, or an employee of a department, agency, instrumentality, or authority carrying out official duties.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 765; Pub. L. 103–311, title I, §§104, 117(a)(3), 119(d)(1), Aug. 26, 1994, 108 Stat. 1673, 1678, 1680; Pub. L. 105–102, §2(3), Nov. 20, 1997, 111 Stat. 2204.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5108(a)(1)	49 App.:1805(c)(1).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §106(c); added Nov. 16, 1990, Pub. L. 101–615, §8(a), 104 Stat. 3255; Oct. 24, 1992, Pub. L. 102–508, §503(a)(1)–(3), (b), 106 Stat. 3311.
5108(a)(2)	49 App.:1805(c)(3).	
5108(a)(3)	49 App.:1805(c)(4).	
5108(b)	49 App.:1805(c)(7), (8).	
5108(c)	49 App.:1805(c)(5), (6).	
5108(d)	49 App.:1805(c)(9).	
5108(e)	49 App.:1805(c)(2).	
5108(f)	49 App.:1805(c)(10).	
5108(g)(1)	49 App.:1805(c)(11).	
5108(g)(2)	49 App.:1815(h) (1)–(5).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §117A(h)(1)–(5); added Nov. 16, 1990, Pub. L. 101–615, §17, 104 Stat. 3267.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5108(h)	49 App.:1805(c)(12).	
5108(i)	49 App.:1805(c) (13)–(15).	

In subsection (b)(1), before clause (A), the words ''at a minimum'' are omitted as surplus.

In subsection (d), the words ''streamline and'', ''with respect to a person who is required to file a registration statement under this subsection'', and ''with the Department of Transportation'' are omitted as surplus.

In subsection (g), the word ''impose'' is substituted for ''assess'' for consistency in the revised title and with other titles of the United States Code.

In subsection (g)(2)(A), before clause (i), the words ''Not later than September 30, 1992'' are omitted as obsolete. In clause (viii), the words ''of funds'' are omitted as surplus.

In subsection (g)(2)(B), the words ''of fees'' and ''from persons'' are omitted as surplus.

In subsection (i)(1), the words ''(relating to coordination of Federal information policy)'' are omitted as surplus.

In subsection (i)(2)(A), the words ''Notwithstanding any other provisions of this subsection'' are omitted as surplus.

PUB. L. 105–102

This amends 49:5108(f) to correct an erroneous cross-reference.

AMENDMENTS

1997—Subsec. (f). Pub. L. 105–102 which directed substitution of ''section 552(b)'' for ''section 522(f)'' could not be executed because ''section 522(f)'' did not appear.

1994—Subsec. (a)(1)(D). Pub. L. 103–311, §117(a)(3), substituted ''a bulk packaging'' for ''a bulk package'' and ''the bulk packaging'' for ''the package''.

Subsec. (a)(4). Pub. L. 103–311, §104, added par. (4).

Subsec. (g)(2)(A)(viii). Pub. L. 103–311, §119(d)(1), struck out ''5107(e),'' before ''5108(g)(2)''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5107, 5108, 5116, 5127 of this title.

§ 5109. Motor carrier safety permits

(a) REQUIREMENT.—A motor carrier may transport or cause to be transported by motor vehicle in commerce hazardous material only if the carrier holds a safety permit the Secretary of Transportation issues under this section authorizing the transportation and keeps a copy of the permit, or other proof of its existence, in the vehicle. The Secretary shall issue a permit if the Secretary finds the carrier is fit, willing, and able—

(1) to provide the transportation to be authorized by the permit;

(2) to comply with this chapter and regulations the Secretary prescribes to carry out this chapter; and

(3) to comply with applicable United States motor carrier safety laws and regulations and applicable minimum financial responsibility laws and regulations.

(b) APPLICABLE TRANSPORTATION.—The Secretary shall prescribe by regulation the hazardous material and amounts of hazardous material to which this section applies. However, this section shall apply at least to transportation by a

motor carrier, in amounts the Secretary establishes, of—

(1) a class A or B explosive;

(2) liquefied natural gas;

(3) hazardous material the Secretary designates as extremely toxic by inhalation; and

(4) a highway-route-controlled quantity of radioactive material, as defined by the Secretary.

(c) APPLICATIONS.—A motor carrier shall file an application with the Secretary for a safety permit to provide transportation under this section. The Secretary may approve any part of the application or deny the application. The application shall be under oath and contain information the Secretary requires by regulation.

(d) AMENDMENTS, SUSPENSIONS, AND REVOCATIONS.—(1) After notice and an opportunity for a hearing, the Secretary may amend, suspend, or revoke a safety permit, as provided by procedures prescribed under subsection (e) of this section, when the Secretary decides the motor carrier is not complying with a requirement of this chapter, a regulation prescribed under this chapter, or an applicable United States motor carrier safety law or regulation or minimum financial responsibility law or regulation.

(2) If the Secretary decides an imminent hazard exists, the Secretary may amend, suspend, or revoke a permit before scheduling a hearing.

(e) PROCEDURES.—The Secretary shall prescribe by regulation—

(1) application procedures, including form, content, and fees necessary to recover the complete cost of carrying out this section;

(2) standards for deciding the duration, terms, and limitations of a safety permit;

(3) procedures to amend, suspend, or revoke a permit; and

(4) other procedures the Secretary considers appropriate to carry out this section.

(f) SHIPPER RESPONSIBILITY.—A person offering hazardous material for motor vehicle transportation in commerce may offer the material to a motor carrier only if the carrier has a safety permit issued under this section authorizing the transportation.

(g) CONDITIONS.—A motor carrier may provide transportation under a safety permit issued under this section only if the carrier complies with conditions the Secretary finds are required to protect public safety.

(h) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section not later than November 16, 1991.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 767.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5109(a)	49 App.:1805(d)(1), (2).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 106(d); added Nov. 16, 1990, Pub. L. 101–615, § 8(a), 104 Stat. 3257; Oct. 24, 1992, Pub. L. 102–508, § 503(a)(4), (5), (b), 106 Stat. 3311.
5109(b)	49 App.:1805(d)(5).	
5109(c)	49 App.:1805(d)(7).	
5109(d)	49 App.:1805(d)(4).	
5109(e)	49 App.:1805(d)(6).	
5109(f)	49 App.:1805(d)(3).	
5109(g)	49 App.:1805(d)(8).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5109(h)	49 App.:1805 (note).	Nov. 16, 1990, Pub. L. 101–615, § 8(b), 104 Stat. 3258.

In subsection (a), before clause (1), the words ''Except as provided in this subsection'' and ''used to provide such transportation'' are omitted as surplus.

In subsection (b), before clause (1), the word ''all'' is omitted as surplus.

In subsection (e)(2), the word ''conditions'' is omitted as being included in ''terms''.

In subsection (h), the text of section 8(b) (words before semicolon of the Hazardous Materials Transportation Uniform Safety Act of 1990 (Public Law 101–615, 104 Stat. 3258) is omitted as obsolete.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5107 of this title.

§ 5110. Shipping papers and disclosure

(a) PROVIDING SHIPPING PAPERS.—Each person offering for transportation in commerce hazardous material to which the shipping paper requirements of the Secretary of Transportation apply shall provide to the carrier providing the transportation a shipping paper that makes the disclosures the Secretary prescribes under subsection (b) of this section.

(b) CONSIDERATIONS AND REQUIREMENTS.—In carrying out subsection (a) of this section, the Secretary shall consider and may require—

(1) a description of the hazardous material, including the proper shipping name;

(2) the hazard class of the hazardous material;

(3) the identification number (UN/NA) of the hazardous material;

(4) immediate first action emergency response information or a way for appropriate reference to the information (that must be available immediately); and

(5) a telephone number for obtaining more specific handling and mitigation information about the hazardous material at any time during which the material is transported.

(c) KEEPING SHIPPING PAPERS ON THE VEHICLE.—(1) A motor carrier, and the person offering the hazardous material for transportation if a private motor carrier, shall keep the shipping paper on the vehicle transporting the material.

(2) Except as provided in paragraph (1) of this subsection, the shipping paper shall be kept in a location the Secretary specifies in a motor vehicle, train, vessel, aircraft, or facility until—

(A) the hazardous material no longer is in transportation; or

(B) the documents are made available to a representative of a department, agency, or instrumentality of the United States Government or a State or local authority responding to an accident or incident involving the motor vehicle, train, vessel, aircraft, or facility.

(d) DISCLOSURE TO EMERGENCY RESPONSE AUTHORITIES.—When an incident involving hazardous material being transported in commerce occurs, the person transporting the material, immediately on request of appropriate emergency response authorities, shall disclose to the authorities information about the material.

(e) RETENTION OF PAPERS.—After the hazardous material to which a shipping paper provided to a carrier under subsection (a) applies is no longer in transportation, the person who provided the shipping paper and the carrier required to maintain it under subsection (a) shall retain the paper or electronic image thereof for a period of 1 year to be accessible through their respective principal places of business. Such person and carrier shall, upon request, make the shipping paper available to a Federal, State, or local government agency at reasonable times and locations.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 768; Pub. L. 103–311, title I, §115, Aug. 26, 1994, 108 Stat. 1678.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5110(a)	49 App.:1804(g)(1) (1st sentence words before ''for the carrier'').	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §105(g); added Nov. 16, 1990, Pub. L. 101–615, §6, 104 Stat. 3253.
5110(b)	49 App.:1804(g)(2).	
5110(c)	49 App.:1804(g)(1) (1st sentence words after ''paragraph (2)'', last sentence), (3).	
5110(d)	49 App.:1804(g)(4).	

In subsection (c)(1), the words ''A motor carrier'' are substituted for ''the carrier'' for clarity.

AMENDMENTS

1994—Subsec. (e). Pub. L. 103–311 added subsec. (e).

IMPROVEMENTS TO HAZARDOUS MATERIALS IDENTIFICATION SYSTEMS

Pub. L. 101–615, §25, Nov. 16, 1990, 104 Stat. 3273, provided that:

''(a) RULEMAKING PROCEEDING.—

''(1) INITIATION.—In order to develop methods of improving the current system of identifying hazardous materials being transported in vehicles for safeguarding the health and safety of persons responding to emergencies involving such hazardous materials and the public and to facilitate the review and reporting process required by subsection (d), the Secretary of Transportation shall initiate a rulemaking proceeding not later than 30 days after the date of the enactment of this Act [Nov. 16, 1990].

''(2) PRIMARY PURPOSES.—The primary purposes of the rulemaking proceeding initiated under this subsection are—

''(A) to determine methods of improving the current system of placarding vehicles transporting hazardous materials; and

''(B) to determine methods for establishing and operating a central reporting system and computerized telecommunications data center described in subsection (b)(1).

''(3) METHODS OF IMPROVING PLACARDING SYSTEM.—The methods of improving the current system of placarding to be considered under the rulemaking proceeding initiated under this subsection shall include methods to make such placards more visible, methods to reduce the number of improper and missing placards, alternative methods of marking vehicles for the purpose of identifying the hazardous materials being transported, methods of modifying the composition of placards in order to ensure their resistance to flammability, methods of improving the coding system used with respect to such placards, identification of appropriate emergency response procedures through symbols on placards, and whether or not telephone numbers of any continually monitored telephone systems which are established under the Hazardous Materials Transportation Act [see 49 U.S.C. 5101 et seq.] are displayed on vehicles transporting hazardous materials.

''(4) COMPLETION OF RULEMAKING PROCEEDING WITH RESPECT TO REPORTING SYSTEM AND DATA CENTER.—Not later than 19 months after the date of the enactment of this Act [Nov. 16, 1990], the Secretary of Transportation shall complete the rulemaking proceeding initiated with respect to the central reporting system and computerized telecommunications data center described in subsection (b).

''(5) FINAL RULE WITH RESPECT TO PLACARDING.—Not later than 30 months after the date of the enactment of this Act, the Secretary of Transportation shall issue a final rule relating to improving the current system for placarding vehicles transporting hazardous materials.

''(b) CENTRAL REPORTING SYSTEM AND COMPUTERIZED TELECOMMUNICATIONS DATA CENTER STUDY.—

''(1) ARRANGEMENTS WITH NATIONAL ACADEMY OF SCIENCES.—Not later than 30 days after the date of the enactment of this Act [Nov. 16, 1990], the Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the feasibility and necessity of establishing and operating a central reporting system and computerized telecommunications data center that is capable of receiving, storing, and retrieving data concerning all daily shipments of hazardous materials, that can identify hazardous materials being transported by any mode of transportation, and that can provide information to facilitate responses to accidents and incidents involving the transportation of hazardous materials.

''(2) CONSULTATION AND REPORT.—In entering into any arrangements with the National Academy of Sciences for conducting the study under this section, the Secretary of Transportation shall request the National Academy of Sciences—

''(A) to consult with the Department of Transportation, the Department of Health and Human Services, the Environmental Protection Agency, the Federal Emergency Management Agency, and the Occupational Safety and Health Administration, shippers and carriers of hazardous materials, manufacturers of computerized telecommunications systems, State and local emergency preparedness organizations (including law enforcement and firefighting organizations), and appropriate international organizations in conducting such study; and

''(B) to submit, not later than 19 months after the date of the enactment of this Act, to the Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committees on Energy and Commerce and Public Works and Transportation of the House of Representatives a report on the results of such study.

Such report shall include recommendations of the National Academy of Sciences with respect to establishment and operation of a central reporting system and computerized telecommunications data center described in paragraph (1).

''(3) AUTHORIZATION OF APPROPRIATION.—In addition to amounts authorized under section 115 of the Hazardous Materials Transportation Act [see 49 U.S.C. 5127(a)], there is authorized to be appropriated to the Secretary of Transportation to carry out this subsection $350,000.

''(c) ADDITIONAL PURPOSES OF RULEMAKING PROCEEDING AND STUDY.—Additional purposes of the rulemaking proceeding initiated under subsection (a) with respect to a central reporting system and computerized telecommunications data center described in subsection (b) and the study conducted under subsection (b) are—

''(1) to determine whether such a system and center should be established and operated by the United States Government or by a private entity, either on its own initiative or under contract with the United States;

''(2) to determine, on an annualized basis, the estimated cost for establishing, operating, and maintaining such a system and center and for carrier and shipper compliance with such a system;

''(3) to determine methods for financing the cost of establishing, operating, and maintaining such a system and center;

''(4) to determine projected safety benefits of establishing and operating such a system and center;

''(5) to determine whether or not shippers, carriers, and handlers of hazardous materials, in addition to law enforcement officials and persons responsible for responding to emergencies involving hazardous materials, should have access to such system for obtaining information concerning shipments of hazardous materials and technical and other information and advice with respect to such emergencies;

''(6) to determine methods for ensuring the security of the information and data stored in such a system;

''(7) to determine types of hazardous materials and types of shipments for which information and data should be stored in such a system;

''(8) to determine the degree of liability of the operator of such a system and center for providing incorrect, false, or misleading information;

''(9) to determine deadlines by which shippers, carriers, and handlers of hazardous materials should be required to submit information to the operator of such a system and center and minimum standards relating to the form and contents of such information;

''(10) to determine measures (including the imposition of civil and criminal penalties) for ensuring compliance with the deadlines and standards referred to in paragraph (9); and

''(11) to determine methods for accessing such a system through mobile satellite service or other technologies having the capability to provide 2-way voice, data, or facsimile services.

''(d) REVIEW AND REPORT TO CONGRESS.—

''(1) IN GENERAL.—Not later than 25 months after the date of the enactment of this Act [Nov. 16, 1990], the Secretary of Transportation shall review the report of the National Academy of Sciences submitted under subsection (b) and the results of rulemaking proceeding initiated under subsection (a) with respect to a central reporting system and computerized telecommunications data center and shall prepare and submit to Congress a report summarizing the report of the National Academy of Sciences and the results of such rulemaking proceeding, together with the Secretary's recommendations concerning the establishment and operation of such a system and center and the Secretary's recommendations concerning implementation of the recommendations contained in the report of the National Academy of Sciences.

''(2) WEIGHT TO BE GIVEN TO RECOMMENDATIONS OF NAS.—In conducting the review and preparing the report under this subsection, the Secretary shall give substantial weight to the recommendations contained in the report of the National Academy of Sciences submitted under subsection (b).

''(3) INCLUSION OF REASONS FOR NOT FOLLOWING RECOMMENDATIONS.—If the Secretary does not include in the report prepared for submission to Congress under this subsection a recommendation for implementation of a recommendation contained in the report of the National Academy of Sciences submitted under subsection (b), the Secretary shall include in the report to Congress under this subsection the Secretary's reasons for not recommending implementation of the recommendation of the National Academy of Sciences.''

CONTINUALLY MONITORED TELEPHONE SYSTEMS

Pub. L. 101–615, § 26, Nov. 16, 1990, 104 Stat. 3273, provided that:

''(a) RULEMAKING PROCEEDING.—Not later than 90 days after the date of the enactment of this Act [Nov. 16, 1990], the Secretary of Transportation shall initiate a rulemaking proceeding on the feasibility, necessity, and safety benefits of requiring carriers involved in the hazardous materials transportation industry to establish continually monitored telephone systems equipped to provide emergency response information and assistance with respect to accidents and incidents involving hazardous materials. Additional objectives of such proceeding shall be to determine which hazardous materials, if any, should be covered by such a requirement and which segments of such industry (including persons who own and operate motor vehicles, trains, vessels, aircraft, and in-transit storage facilities) should be covered by such a requirement.

''(b) COMPLETION OF PROCEEDING.—Not later than 30 months after the date of the enactment of this Act [Nov. 16, 1990], the Secretary of Transportation shall complete the proceeding under this section and may issue a final rule relating to establishment of continually monitored telephone systems described in subsection (a).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5117, 5120, 5125 of this title; title 8 section 1288.

§ 5111. Rail tank cars

A rail tank car built before January 1, 1971, may be used to transport hazardous material in commerce only if the air brake equipment support attachments of the car comply with the standards for attachments contained in sections 179.100-16 and 179.200-19 of title 49, Code of Federal Regulations, in effect on November 16, 1990.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 769.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5111	49 App.:1817.	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 119; added Nov. 16, 1990, Pub. L. 101–615, § 19, 104 Stat. 3269.

The text of 49 App.:1817(a) and the words ''after July 1, 1991'' are omitted as obsolete.

§ 5112. Highway routing of hazardous material

(a) APPLICATION.—(1) This section applies to a motor vehicle only if the vehicle is transporting hazardous material in commerce for which placarding of the vehicle is required under regulations prescribed under this chapter. However, the Secretary of Transportation by regulation may extend application of this section or a standard prescribed under subsection (b) of this section to—

(A) any use of a vehicle under this paragraph to transport any hazardous material in commerce; and

(B) any motor vehicle used to transport hazardous material in commerce.

(2) Except as provided by subsection (d) of this section and section 5125(c) of this title, each State and Indian tribe may establish, maintain, and enforce—

(A) designations of specific highway routes over which hazardous material may and may not be transported by motor vehicle; and

(B) limitations and requirements related to highway routing.

(b) STANDARDS FOR STATES AND INDIAN TRIBES.—(1) The Secretary, in consultation with the States, shall prescribe by regulation standards for States and Indian tribes to use in carry-

ing out subsection (a) of this section. The standards shall include—

(A) a requirement that a highway routing designation, limitation, or requirement of a State or Indian tribe shall enhance public safety in the area subject to the jurisdiction of the State or tribe and in areas of the United States not subject to the jurisdiction of the State or tribe and directly affected by the designation, limitation, or requirement;

(B) minimum procedural requirements to ensure public participation when the State or Indian tribe is establishing a highway routing designation, limitation, or requirement;

(C) a requirement that, in establishing a highway routing designation, limitation, or requirement, a State or Indian tribe consult with appropriate State, local, and tribal officials having jurisdiction over areas of the United States not subject to the jurisdiction of that State or tribe establishing the designation, limitation, or requirement and with affected industries;

(D) a requirement that a highway routing designation, limitation, or requirement of a State or Indian tribe shall ensure through highway routing for the transportation of hazardous material between adjacent areas;

(E) a requirement that a highway routing designation, limitation, or requirement of one State or Indian tribe affecting the transportation of hazardous material in another State or tribe may be established, maintained, and enforced by the State or tribe establishing the designation, limitation, or requirement only if—

(i) the designation, limitation, or requirement is agreed to by the other State or tribe within a reasonable period or is approved by the Secretary under subsection (d) of this section; and

(ii) the designation, limitation, or requirement is not an unreasonable burden on commerce;

(F) a requirement that establishing a highway routing designation, limitation, or requirement of a State or Indian tribe be completed in a timely way;

(G) a requirement that a highway routing designation, limitation, or requirement of a State or Indian tribe provide reasonable routes for motor vehicles transporting hazardous material to reach terminals, facilities for food, fuel, repairs, and rest, and places to load and unload hazardous material;

(H) a requirement that a State be responsible—

(i) for ensuring that political subdivisions of the State comply with standards prescribed under this subsection in establishing, maintaining, and enforcing a highway routing designation, limitation, or requirement; and

(ii) for resolving a dispute between political subdivisions; and

(I) a requirement that, in carrying out subsection (a) of this section, a State or Indian tribe shall consider—

(i) population densities;

(ii) the types of highways;

(iii) the types and amounts of hazardous material;

(iv) emergency response capabilities;

(v) the results of consulting with affected persons;

(vi) exposure and other risk factors;

(vii) terrain considerations;

(viii) the continuity of routes;

(ix) alternative routes;

(x) the effects on commerce;

(xi) delays in transportation; and

(xii) other factors the Secretary considers appropriate.

(2) The Secretary may not assign a specific weight that a State or Indian tribe shall use when considering the factors under paragraph (1)(I) of this subsection.

(c) LIST OF ROUTE DESIGNATIONS.—In coordination with the States, the Secretary shall update and publish periodically a list of currently effective hazardous material highway route designations.

(d) DISPUTE RESOLUTION.—(1) The Secretary shall prescribe regulations for resolving a dispute related to through highway routing or to an agreement with a proposed highway route designation, limitation, or requirement between or among States, political subdivisions of different States, or Indian tribes.

(2) A State or Indian tribe involved in a dispute under this subsection may petition the Secretary to resolve the dispute. The Secretary shall resolve the dispute not later than one year after receiving the petition. The resolution shall provide the greatest level of highway safety without being an unreasonable burden on commerce and shall ensure compliance with standards prescribed under subsection (b) of this section.

(3)(A) After a petition is filed under this subsection, a civil action about the subject matter of the dispute may be brought in a court only after the earlier of—

(i) the day the Secretary issues a final decision; or

(ii) the last day of the one-year period beginning on the day the Secretary receives the petition.

(B) A State or Indian tribe adversely affected by a decision of the Secretary under this subsection may bring a civil action for judicial review of the decision in an appropriate district court of the United States not later than 89 days after the day the decision becomes final.

(e) RELATIONSHIP TO OTHER LAWS.—This section and regulations prescribed under this section do not affect sections 31111 and 31113 of this title or section 127 of title 23.

(f) EXISTING RADIOACTIVE MATERIAL ROUTING REGULATIONS.—The Secretary is not required to amend or again prescribe regulations related to highway routing designations over which radioactive material may and may not be transported by motor vehicles, and limitations and requirements related to the routing, that were in effect on November 16, 1990.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 769.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5112(a)(1)	49 App.:1804(b)(7).	Jan. 3, 1975, Pub. L. 93–633, § 105(b)(1)–(3), (5)–(9), (c), 88 Stat. 2157; restated Nov. 16, 1990, Pub. L. 101–615, § 4, 104 Stat. 3248, 3251.
5112(a)(2)	49 App.:1804(b)(1).	
5112(b)(1)	49 App.:1804(b)(2), (3).	
5112(b)(2)	49 App.:1804(b)(9).	
5112(c)	49 App.:1804(c).	
5112(d)	49 App.:1804(b)(5).	
5112(e)	49 App.:1804(b)(6).	
5112(f)	49 App.:1804(b)(8).	

In subsection (a)(1), the words ''in the area which is subject to the jurisdiction of such State or Indian tribe'' are omitted as surplus.

In subsection (b)(1), before clause (A), the words ''Not later than 18 months after November 16, 1990'' are omitted as obsolete. In clause (H)(i), the words ''prescribed under this subsection'' are added for clarity.

In subsection (d)(1), the words ''within 18 months of November 16, 1990'' are omitted as obsolete. The words ''over a matter'' are omitted as surplus.

In subsection (d)(3), the word ''civil'' is added for consistency in the revised title and with other titles of the United States Code.

In subsection (e), the words ''superseding or otherwise'', ''application of'', ''relating to vehicle weight limitations'', and ''relating to vehicle length and vehicle width limitations, respectively'' are omitted as surplus.

In subsection (f), the word ''modify'' is omitted as surplus and for consistency in the revised title. The words ''issued by the Department of Transportation before November 16, 1990, and'' are omitted as obsolete.

STUDY OF HAZARDOUS MATERIALS TRANSPORTATION BY MOTOR CARRIERS NEAR FEDERAL PRISONS

Pub. L. 103–311, title I, § 121, Aug. 26, 1994, 108 Stat. 1681, directed Secretary of Transportation to submit to Congress, not later than 1 year after Aug. 26, 1994, report on results of study to determine safety considerations of transporting hazardous materials by motor carriers in close proximity to Federal prisons, particularly those housing maximum security prisoners, which was to include evaluation of ability of such facilities and designated local planning agencies to safely evacuate such prisoners in event of emergency and any special training, equipment, or personnel that would be required by such facility and designated local emergency planning agencies to carry out such evacuation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5117, 5120, 5125 of this title.

§ 5113. Unsatisfactory safety rating

(a) PROHIBITED TRANSPORTATION.—A motor carrier receiving an unsatisfactory safety rating from the Secretary of Transportation has 45 days to improve the rating to conditional or satisfactory. Beginning on the 46th day and until the motor carrier receives a conditional or satisfactory rating, a motor carrier not having received a conditional or satisfactory rating during the 45-day period may not operate a commercial motor vehicle (as defined in section 31132 of this title)—

(1) to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under this chapter; or

(2) to transport more than 15 individuals.

(b) RATING REVIEW.—The Secretary shall review the factors that resulted in a motor carrier receiving an unsatisfactory rating not later than 30 days after the motor carrier requests a review.

(c) PROHIBITED GOVERNMENT USE.—A department, agency, or instrumentality of the United States Government may not use a motor carrier that has an unsatisfactory rating from the Secretary—

(1) to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under this chapter; or

(2) to transport more than 15 individuals.

(d) PUBLIC AVAILABILITY AND UPDATING OF RATINGS.—The Secretary, in consultation with the Interstate Commerce Commission, shall prescribe regulations amending the motor carrier safety regulations in subchapter B of chapter III of title 49, Code of Federal Regulations, to establish a system to make readily available to the public, and update periodically, the safety ratings of motor carriers that have unsatisfactory ratings from the Secretary.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 771.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5113(a)	49 App.:1814(a).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 117; added Nov. 3, 1990, Pub. L. 101–500, § 15(b)(1), 104 Stat. 1218.
5113(b)	49 App.:1814(b).	
5113(c)	49 App.:1814(c).	
5113(d)	49 App.:2501 (note).	Nov. 3, 1990, Pub. L. 101–500, § 15(b)(2), 104 Stat. 1219.

In subsections (a) and (c), the words ''individuals'' is substituted for ''passengers, including the driver'' for clarity and consistency.

In subsection (a), before clause (1), the words ''Effective January 1, 1991'' are omitted as obsolete. The words ''to take such action as may be necessary '' are omitted as surplus.

In subsection (b), the words ''from the Secretary'' and ''conditions and other'' are omitted as surplus.

In subsection (d), the words ''Not later than 1 year after the date of enactment of this Act'' are omitted as obsolete.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5127 of this title.

§ 5114. Air transportation of ionizing radiation material

(a) TRANSPORTING IN AIR COMMERCE.—Material that emits ionizing radiation spontaneously may be transported on a passenger-carrying aircraft in air commerce (as defined in section 40102(a) of this title) only if the material is in-

tended for a use in, or incident to, research or medical diagnosis or treatment and does not present an unreasonable hazard to health and safety when being prepared for, and during, transportation.

(b) PROCEDURES.—The Secretary of Transportation shall prescribe procedures for monitoring and enforcing regulations prescribed under this section.

(c) NONAPPLICATION.—This section does not apply to material the Secretary decides does not pose a significant hazard to health or safety when transported because of its low order of radioactivity.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 772.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5114(a)	49 App.:1807(a) (1st, 2d sentences), (b) (1st sentence).	Jan. 3, 1975, Pub. L. 93–633, § 108, 88 Stat. 2159; Nov. 16, 1990, Pub. L. 101–615, § 10, 104 Stat. 3259.
5114(b)	49 App.:1807(a) (last sentence).	
5114(c)	49 App.:1807(b) (last sentence).	

In subsection (a), the text of 49 App.:1807(a) (1st sentence) is omitted as executed. The words ''or combination of materials'' are omitted as surplus.

In subsection (b), the words ''further'' and ''effective'' are omitted as surplus.

§ 5115. Training curriculum for the public sector

(a) DEVELOPMENT AND UPDATING.—Not later than November 16, 1992, in coordination with the Director of the Federal Emergency Management Agency, Chairman of the Nuclear Regulatory Commission, Administrator of the Environmental Protection Agency, Secretaries of Labor, Energy, and Health and Human Services, and Director of the National Institute of Environmental Health Sciences, and using the existing coordinating mechanisms of the national response team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee, the Secretary of Transportation shall develop and update periodically a curriculum consisting of a list of courses necessary to train public sector emergency response and preparedness teams. Only in developing the curriculum, the Secretary of Transportation shall consult with regional response teams established under the national contingency plan established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605), representatives of commissions established under section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001), persons (including governmental entities) that provide training for responding to accidents and incidents involving the transportation of hazardous material, and representatives of persons that respond to those accidents and incidents.

(b) REQUIREMENTS.—The curriculum developed under subsection (a) of this section—

(1) shall include—

(A) a recommended course of study to train public sector employees to respond to an accident or incident involving the transportation of hazardous material and to plan for those responses;

(B) recommended basic courses and minimum number of hours of instruction necessary for public sector employees to be able to respond safely and efficiently to an accident or incident involving the transportation of hazardous material and to plan those responses; and

(C) appropriate emergency response training and planning programs for public sector employees developed under other United States Government grant programs, including those developed with grants made under section 126(g) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9660a); and

(2) may include recommendations on material appropriate for use in a recommended basic course described in clause (1)(B) of this subsection.

(c) TRAINING ON COMPLYING WITH LEGAL REQUIREMENTS.—A recommended basic course described in subsection (b)(1)(B) of this section shall provide the training necessary for public sector employees to comply with—

(1) regulations related to hazardous waste operations and emergency response contained in part 1910 of title 29, Code of Federal Regulations, prescribed by the Secretary of Labor;

(2) regulations related to worker protection standards for hazardous waste operations contained in part 311 of title 40, Code of Federal Regulations, prescribed by the Administrator; and

(3) standards related to emergency response training prescribed by the National Fire Protection Association.

(d) DISTRIBUTION AND PUBLICATION.—With the national response team—

(1) the Director of the Federal Emergency Management Agency shall distribute the curriculum and any updates to the curriculum to the regional response teams and all committees and commissions established under section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001); and

(2) the Secretary of Transportation may publish a list of programs that uses a course developed under this section for training public sector employees to respond to an accident or incident involving the transportation of hazardous material.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 772; Pub. L. 103–429, § 6(5), Oct. 31, 1994, 108 Stat. 4378.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5115(a)	49 App.:1815(g)(1), (5).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 117A (g)(1)–(6), (8); added Nov. 16, 1990, Pub. L. 101–615, § 17, 104 Stat. 3265, 3267.
5115(b)	49 App.:1815(g)(2), (3).	
5115(c)	49 App.:1815(g)(4).	
5115(d)(1)	49 App.:1815(g)(6).	
5115(d)(2)	49 App.:1815(g)(8).	

In subsection (c)(3), the words ''including standards 471 and 472'' are omitted as surplus.

In subsection (d)(1), the word ''updates'' is substituted for ''amendments'' for clarity.

PUB. L. 103–429

This amends 49:5115(b)(1)(C) to make a cross-reference more precise.

AMENDMENTS

1994—Subsec. (b)(1)(C). Pub. L. 103–429 substituted ''126(g)'' for ''126''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5108, 5116, 5127 of this title.

§ 5116. Planning and training grants, monitoring, and review

(a) PLANNING GRANTS.—(1) The Secretary of Transportation shall make grants to States and Indian tribes—

(A) to develop, improve, and carry out emergency plans under the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001 et seq.), including ascertaining flow patterns of hazardous material on lands under the jurisdiction of a State or Indian tribe, and between lands under the jurisdiction of a State or Indian tribe and lands of another State or Indian tribe; and

(B) to decide on the need for a regional hazardous material emergency response team.

(2) The Secretary of Transportation may make a grant to a State or Indian tribe under paragraph (1) of this subsection in a fiscal year only if—

(A) the State or Indian tribe certifies that the total amount the State or Indian tribe expends (except amounts of the United States Government) to develop, improve, and carry out emergency plans under the Act will at least equal the average level of expenditure for the last 2 fiscal years; and

(B) the State agrees to make available at least 75 percent of the amount of the grant under paragraph (1) of this subsection in the fiscal year to local emergency planning committees established under section 301(c) of the Act (42 U.S.C. 11001(c)) to develop emergency plans under the Act.

(3) A State or Indian tribe receiving a grant under this subsection shall ensure that planning under the grant is coordinated with emergency planning conducted by adjacent States and Indian tribes.

(b) TRAINING GRANTS.—(1) The Secretary of Transportation shall make grants to States and Indian tribes to train public sector employees to respond to accidents and incidents involving hazardous material.

(2) The Secretary of Transportation may make a grant under paragraph (1) of this subsection in a fiscal year—

(A) to a State or Indian tribe only if the State or tribe certifies that the total amount the State or tribe expends (except amounts of the Government) to train public sector employees to respond to an accident or incident involving hazardous material will at least equal the average level of expenditure for the last 2 fiscal years;

(B) to a State or Indian tribe only if the State or tribe makes an agreement with the Secretary that the State or tribe will use in that fiscal year, for training public sector employees to respond to an accident or incident involving hazardous material—

(i) a course developed or identified under section 5115 of this title; or

(ii) another course the Secretary decides is consistent with the objectives of this section; and

(C) to a State only if the State agrees to make available at least 75 percent of the amount of the grant under paragraph (1) of this subsection in the fiscal year for training public sector employees a political subdivision of the State employs or uses.

(3) A grant under this subsection may be used—

(A) to pay—

(i) the tuition costs of public sector employees being trained;

(ii) travel expenses of those employees to and from the training facility;

(iii) room and board of those employees when at the training facility; and

(iv) travel expenses of individuals providing the training;

(B) by the State, political subdivision, or Indian tribe to provide the training; and

(C) to make an agreement the Secretary of Transportation approves authorizing a person (including an authority of a State or political subdivision of a State or Indian tribe) to provide the training—

(i) if the agreement allows the Secretary and the State or tribe to conduct random examinations, inspections, and audits of the training without prior notice; and

(ii) if the State or tribe conducts at least one on-site observation of the training each year.

(4) The Secretary of Transportation shall allocate amounts made available for grants under this subsection for a fiscal year among eligible States and Indian tribes based on the needs of the States and tribes for emergency response training. In making a decision about those needs, the Secretary shall consider—

(A) the number of hazardous material facilities in the State or on land under the jurisdiction of the tribe;

(B) the types and amounts of hazardous material transported in the State or on that land;

(C) whether the State or tribe imposes and collects a fee on transporting hazardous material;

(D) whether the fee is used only to carry out a purpose related to transporting hazardous material; and

(E) other factors the Secretary decides are appropriate to carry out this subsection.

(c) COMPLIANCE WITH CERTAIN LAW.—The Secretary of Transportation may make a grant to a State under this section in a fiscal year only if

the State certifies that the State complies with sections 301 and 303 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001, 11003).

(d) APPLICATIONS.—A State or Indian tribe interested in receiving a grant under this section shall submit an application to the Secretary of Transportation. The application must be submitted at the time, and contain information, the Secretary requires by regulation to carry out the objectives of this section.

(e) GOVERNMENT'S SHARE OF COSTS.—A grant under this section is for 80 percent of the cost the State or Indian tribe incurs in the fiscal year to carry out the activity for which the grant is made. Amounts of the State or tribe under subsections (a)(2)(A) and (b)(2)(A) of this section are not part of the non-Government share under this subsection.

(f) MONITORING AND TECHNICAL ASSISTANCE.—In coordination with the Secretaries of Transportation and Energy, Administrator of the Environmental Protection Agency, and Director of the National Institute of Environmental Health Sciences, the Director of the Federal Emergency Management Agency shall monitor public sector emergency response planning and training for an accident or incident involving hazardous material. Considering the results of the monitoring, the Secretaries, Administrator, and Directors each shall provide technical assistance to a State, political subdivision of a State, or Indian tribe for carrying out emergency response training and planning for an accident or incident involving hazardous material and shall coordinate the assistance using the existing coordinating mechanisms of the national response team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee.

(g) DELEGATION OF AUTHORITY.—To minimize administrative costs and to coordinate Government grant programs for emergency response training and planning, the Secretary of Transportation may delegate to the Directors of the Federal Emergency Management Agency and National Institute of Environmental Health Sciences, Chairman of the Nuclear Regulatory Commission, Administrator of the Environmental Protection Agency, and Secretaries of Labor and Energy any of the following:

(1) authority to receive applications for grants under this section.

(2) authority to review applications for technical compliance with this section.

(3) authority to review applications to recommend approval or disapproval.

(4) any other ministerial duty associated with grants under this section.

(h) MINIMIZING DUPLICATION OF EFFORT AND EXPENSES.—The Secretaries of Transportation, Labor, and Energy, Directors of the Federal Emergency Management Agency and National Institute of Environmental Health Sciences, Chairman of the Nuclear Regulatory Commission, and Administrator of the Environmental Protection Agency shall review periodically, with the head of each department, agency, or instrumentality of the Government, all emergency response and preparedness training programs of that department, agency, or instrumentality to minimize duplication of effort and expense of the department, agency, or instrumentality in carrying out the programs and shall take necessary action to minimize duplication.

(i) ANNUAL REGISTRATION FEE ACCOUNT AND ITS USES.—The Secretary of the Treasury shall establish an account in the Treasury into which the Secretary of the Treasury shall deposit amounts the Secretary of Transportation collects under section 5108(g)(2)(A) of this title and transfers to the Secretary of the Treasury under section 5108(g)(2)(C) of this title. Without further appropriation, amounts in the account are available—

(1) to make grants under this section;

(2) to monitor and provide technical assistance under subsection (f) of this section; and

(3) to pay administrative costs of carrying out this section and sections 5108(g)(2) and 5115 of this title, except that not more than 10 percent of the amounts made available from the account in a fiscal year may be used to pay those costs.

(j) SUPPLEMENTAL TRAINING GRANTS.—

(1) In order to further the purposes of subsection (b), the Secretary shall, subject to the availability of funds, make grants to national nonprofit employee organizations engaged solely in fighting fires for the purpose of training instructors to conduct hazardous materials response training programs for individuals with statutory responsibility to respond to hazardous materials accidents and incidents.

(2) For the purposes of this subsection the Secretary, after consultation with interested organizations, shall—

(A) identify regions or locations in which fire departments or other organizations which provide emergency response to hazardous materials transportation accidents and incidents are in need of hazardous materials training; and

(B) prioritize such needs and develop a means for identifying additional specific training needs.

(3) Funds granted to an organization under this subsection shall only be used—

(A) to train instructors to conduct hazardous materials response training programs;

(B) to purchase training equipment used exclusively to train instructors to conduct such training programs; and

(C) to disseminate such information and materials as are necessary for the conduct of such training programs.

(4) The Secretary may only make a grant to an organization under this subsection in a fiscal year if the organization enters into an agreement with the Secretary to train instructors to conduct hazardous materials response training programs in such fiscal year that will use—

(A) a course or courses developed or identified under section 5115 of this title; or

(B) other courses which the Secretary determines are consistent with the objectives of this subsection;

for training individuals with statutory responsibility to respond to accidents and incidents

involving hazardous materials. Such agreement also shall provide that training courses shall be open to all such individuals on a nondiscriminatory basis.

(5) The Secretary may impose such additional terms and conditions on grants to be made under this subsection as the Secretary determines are necessary to protect the interests of the United States and to carry out the objectives of this subsection.

(k) REPORTS.—Not later than September 30, 1997, the Secretary shall submit to Congress a report on the allocation and uses of training grants authorized under subsection (b) for fiscal year 1993 through fiscal year 1996 and grants authorized under subsection (j) and section 5107 for fiscal years 1995 and 1996. Such report shall identify the ultimate recipients of training grants and include a detailed accounting of all grant expenditures by grant recipients, the number of persons trained under the grant programs, and an evaluation of the efficacy of training programs carried out.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 773; Pub. L. 103–311, title I, §§105, 119(a), (d)(2), (3), Aug. 26, 1994, 108 Stat. 1673, 1679, 1680; Pub. L. 103–429, §7(c), Oct. 31, 1994, 108 Stat. 4389; Pub. L. 104–287, §§5(8), 6(b), Oct. 11, 1996, 110 Stat. 3389, 3398.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5116(a)	49 App.:1815(a).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §117A(a)–(f), (g)(7), (9), (h)(6); added Nov. 16, 1990, Pub. L. 101–615, §17, 104 Stat. 3263, 3266, 3267, 3268.
5116(b)(1)	49 App.:1815(b)(1).	
5116(b)(2)	49 App.:1815(b)(2)–(4).	
5116(b)(3)	49 App.:1815(b)(5), (6).	
5116(b)(4)	49 App.:1815(b)(7).	
5116(c)	49 App.:1815(c).	
5116(d)	49 App.:1815(e).	
5116(e)	49 App.:1815(d).	
5116(f)	49 App.:1815(g)(7).	
5116(g)	49 App.:1815(f).	
5116(h)	49 App.:1815(g)(9).	
5116(i)	49 App.:1815(h)(6).	

In subsections (a)(2)(A) and (b)(2)(A), the words ''at least equal'' are substituted for ''be maintained at a level which does not fall below'' to eliminate unnecessary words.

In subsection (a)(2)(B), the words ''by the State emergency response commission'' are omitted as surplus.

In subsection (b)(2)(B)(i), the words ''or courses'' are omitted because of 1:1.

In subsection (c), the words ''including compliance with such sections with respect to accidents and incidents involving the transportation of hazardous materials'' are omitted as surplus.

In subsection (d), the word ''section'' is substituted for ''subsection'' for clarity because there are no objectives in the subsection being restated.

In subsection (e), the words ''A grant under this section is for'' are substituted for ''By a grant under this section, the Secretary shall reimburse any State or Indian tribe an amount not to exceed'' to eliminate unnecessary words and for consistency in the revised title. The words ''which are required to be expended under subsections (a)(2) and (b)(2) of this section'' are omitted as surplus. The words ''under this subsection'' are added for clarity.

In subsection (h), the words ''including coordination of training programs'' are omitted as surplus.

PUB. L. 104–287, §5(8)

This amends 49:5116(j)(4)(A) to correct an erroneous cross-reference.

REFERENCES IN TEXT

The Emergency Planning and Community Right-To-Know Act of 1986, referred to in subsec. (a)(1)(A), (2), is title III of Pub. L. 99–499, Oct. 17, 1986, 100 Stat. 1729, which is classified generally to chapter 116 (§11001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11001 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–287, §6(b), made technical correction to directory language of Pub. L. 103–311, §105(b)(2). See 1994 Amendment note below.

Subsec. (j)(4)(A). Pub. L. 104–287, §5(8), substituted ''section 5115 of this title'' for ''subsection (g)''.

1994—Subsec. (a)(1). Pub. L. 103–311, §105(a), in introductory provisions inserted ''and Indian tribes'' after ''States'', and in subpar. (A) substituted ''on lands under the jurisdiction of a State or Indian tribe, and between lands under the jurisdiction of a State or Indian tribe and lands of another State or Indian tribe'' for ''in a State and between States''.

Subsec. (a)(2). Pub. L. 103–311, §105(b)(2), as amended by Pub. L. 104–287, §6(b), struck out ''the State'' after ''only if'' in introductory provisions.

Pub. L. 103–311, §105(b)(1), inserted ''or Indian tribe'' after ''grant to a State'' in introductory provisions.

Subsec. (a)(2)(A). Pub. L. 103–311, §105(b)(1), (3), inserted ''the State or Indian tribe'' before ''certifies'' and ''or Indian tribe'' before ''expends''.

Subsec. (a)(2)(B). Pub. L. 103–311, §105(b)(4), inserted ''the State'' before ''agrees''.

Subsec. (a)(3). Pub. L. 103–311, §105(c), added par. (3).

Subsec. (i)(1). Pub. L. 103–311, §119(d)(2), as amended by Pub. L. 103–429, struck out ''and section 5107(e) of this title'' after ''under this section''.

Subsec. (i)(3). Pub. L. 103–311, §119(d)(3), as amended by Pub. L. 103–429, substituted ''5108(g)(2)'' for ''5107(e), 5108(g)(2),''.

Subsecs. (j), (k). Pub. L. 103–311, §119(a), added subsecs. (j) and (k).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 6(b) of Pub. L. 104–287 provided that the amendment made by that section is effective Aug. 26, 1994.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 7(c) of Pub. L. 103–429 provided that the amendment made by that section is effective Aug. 26, 1994.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5108, 5127 of this title.

§ 5117. Exemptions and exclusions

(a) AUTHORITY TO EXEMPT.—(1) As provided under procedures prescribed by regulation, the Secretary of Transportation may issue an exemption from this chapter or a regulation prescribed under section 5103(b), 5104, 5110, or 5112 of this title to a person transporting, or causing to be transported, hazardous material in a way that achieves a safety level—

(A) at least equal to the safety level required under this chapter; or

(B) consistent with the public interest and this chapter, if a required safety level does not exist.

(2) An exemption under this subsection is effective for not more than 2 years and may be renewed on application to the Secretary.

(b) APPLICATIONS.—When applying for an exemption or renewal of an exemption under this section, the person must provide a safety analysis prescribed by the Secretary that justifies the exemption. The Secretary shall publish in the Federal Register notice that an application for an exemption has been filed and shall give the public an opportunity to inspect the safety analysis and comment on the application. This subsection does not require the release of information protected by law from public disclosure.

(c) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall issue or renew the exemption for which an application was filed or deny such issuance or renewal within 180 days after the first day of the month following the date of the filing of such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the exemption is delayed, along with an estimate of the additional time necessary before the decision is made.

(d) EXCLUSIONS.—(1) The Secretary shall exclude, in any part, from this chapter and regulations prescribed under this chapter—

(A) a public vessel (as defined in section 2101 of title 46);

(B) a vessel exempted under section 3702 of title 46 from chapter 37 of title 46; and

(C) a vessel to the extent it is regulated under the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.).

(2) This chapter and regulations prescribed under this chapter do not prohibit—

(A) or regulate transportation of a firearm (as defined in section 232 of title 18), or ammunition for a firearm, by an individual for personal use; or

(B) transportation of a firearm or ammunition in commerce.

(e) LIMITATION ON AUTHORITY.—Unless the Secretary decides that an emergency exists, an exemption or renewal granted under this section is the only way a person subject to this chapter may be exempt from this chapter.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 776; Pub. L. 103–311, title I, §120(a), Aug. 26, 1994, 108 Stat. 1680.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5117(a)	49 App.:1806(a) (1st, 2d sentences).	Jan. 3, 1975, Pub. L. 93–633, §107, 88 Stat. 2158; Nov. 16, 1990, Pub. L. 101–615, §9, 104 Stat. 3259.
5117(b)	49 App.:1806(a) (3d–last sentences).	
5117(c)(1)	49 App.:1806(b).	
5117(c)(2)	49 App.:1806(c).	
5117(d)	49 App.:1806(d).	

In subsection (a)(1), before clause (A), the words ''or renew'' and ''subject to the requirements of this chapter'' are omitted as surplus. In clause (A), the words ''at least equal to the safety level required under this chapter'' are substituted for ''which is equal to or exceeds that level of safety which would be required in the absence of such exemption'' to eliminate unnecessary words.

In subsection (a)(2), the words ''issued or renewed'' are omitted as surplus.

In subsection (b), the words ''upon application'' and ''grant of such'' are omitted as surplus. The words ''give the public an opportunity to inspect'' are substituted for ''afford access to . . . public'' for clarity. The words ''described by subsection (b) of section 552 of title 5, or which is otherwise'' are omitted as surplus.

In subsection (c)(1), clauses (A) and (B) are substituted for ''any vessel which is excepted from the application of section 201 of the Ports and Waterways Safety Act of 1972 by paragraph (2) of such section''. Section 201 of that Act amended section 4417a of the Revised Statutes (classified at 46:391a prior to its repeal and reenactment as part of the codification of subtitle II of title 46 in 1983). Clauses (A) and (B) restate the exceptions provided by section 201 of that Act and by section 4417a of the Revised Statutes as subsequently amended. Clause (C) is substituted for ''any other vessel regulated under such Act, to the extent of such regulation'' because of the restatement.

In subsection (c)(2), before clause (A), the word ''prescribed'' is substituted for ''issued'' for consistency in the revised title and with other titles of the United States Code.

In subsection (d), the words ''by which'', ''the requirements of'', and ''or relieved of the obligation to meet any requirements imposed under'' are omitted as surplus.

REFERENCES IN TEXT

The Ports and Waterways Safety Act of 1972, referred to in subsec. (d)(1)(C), is Pub. L. 92–340, July 10, 1972, 86 Stat. 424, as amended, which is classified generally to chapter 25 (§1221 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1221 of Title 33 and Tables.

AMENDMENTS

1994—Subsecs. (c) to (e). Pub. L. 103–311 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

§ 5118. Inspectors

(a) GENERAL REQUIREMENT.—The Secretary of Transportation shall maintain the employment of 30 hazardous material safety inspectors more than the total number of safety inspectors authorized for the fiscal year that ended September 30, 1990, for the Federal Railroad Administration, the Federal Highway Administration, and the Research and Special Programs Administration.

(b) ALLOCATION TO PROMOTE SAFETY IN TRANSPORTING RADIOACTIVE MATERIAL.—(1) The Secretary shall ensure that 10 of the 30 additional inspectors focus on promoting safety in transporting radioactive material, as defined by the Secretary, including inspecting—

(A) at the place of origin, shipments of high-level radioactive waste or nuclear spent material (as those terms are defined in section 5105(a) of this title); and

(B) to the maximum extent practicable shipments of radioactive material that are not high-level radioactive waste or nuclear spent material.

(2) In carrying out their duties, those 10 additional inspectors shall cooperate to the greatest extent possible with safety inspectors of the Nuclear Regulatory Commission and appropriate State and local government officials.

(3) Those 10 additional inspectors shall be allocated as follows:

(A) one to the Research and Special Programs Administration.

(B) 3 to the Federal Railroad Administration.

(C) 3 to the Federal Highway Administration.

(D) the other 3 among the administrations referred to in clauses (A)–(C) of this paragraph as the Secretary decides.

(c) ALLOCATION OF OTHER INSPECTORS.—The Secretary shall allocate, as the Secretary decides, the 20 additional inspectors authorized under this section and not allocated under subsection (b) of this section among the administrations referred to in subsection (b)(3)(A)–(C) of this section.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 777.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5118(a)	49 App.:1813 (note).	Nov. 16, 1990, Pub. L. 101–615, § 16(a) (1st sentence), 104 Stat. 3262.
5118(b)	49 App.:1813 (note).	Nov. 16, 1990, Pub. L. 101–615, § 16(a) (2d, last sentences)–(c), 104 Stat. 3262.
5118(c)	49 App.:1813 (note).	Nov. 16, 1990, Pub. L. 101–615, § 16(d), 104 Stat. 3262.

In subsection (a), the words ''in fiscal year 1991'' are omitted as executed.

In subsection (b)(1), before clause (A), the words ''take such action as may be necessary to'' and ''the activities of'' are omitted as surplus.

In subsection (b)(3)(A)–(C), the words ''not less than'' are omitted as surplus.

In subsection (b)(3)(D), the words ''other 3'' are substituted for ''remainder'' for clarity.

In subsection (c), the word ''administrations'' is substituted for ''agencies'' for consistency.

§ 5119. Uniform forms and procedures

(a) WORKING GROUP.—The Secretary of Transportation shall establish a working group of State and local government officials, including representatives of the National Governors' Association, the National Association of Counties, the National League of Cities, the United States Conference of Mayors, and the National Conference of State Legislatures. The purposes of the working group are—

(1) to establish uniform forms and procedures for a State—

(A) to register persons that transport or cause to be transported hazardous material by motor vehicle in the State; and

(B) to allow the transportation of hazardous material in the State; and

(2) to decide whether to limit the filing of any State registration and permit forms and collection of filing fees to the State in which the person resides or has its principal place of business.

(b) CONSULTATION AND REPORTING.—The working group—

(1) shall consult with persons subject to registration and permit requirements described in subsection (a) of this section; and

(2) not later than November 16, 1993, shall submit to the Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a final report that contains—

(A) a detailed statement of its findings and conclusions; and

(B) its joint recommendations on the matters referred to in subsection (a) of this section.

(c) REGULATIONS ON RECOMMENDATIONS.—(1) The Secretary shall prescribe regulations to carry out the recommendations contained in the report submitted under subsection (b) of this section with which the Secretary agrees. The regulations shall be prescribed by the later of the last day of the 3-year period beginning on the date the working group submitted its report or the last day of the 90-day period beginning on the date on which at least 26 States adopt all of the recommendations of the report. A regulation prescribed under this subsection may not define or limit the amount of a fee a State may impose or collect.

(2) A regulation prescribed under this subsection takes effect one year after it is prescribed. The Secretary may extend the one-year period for an additional year for good cause. After a regulation is effective, a State may establish, maintain, or enforce a requirement related to the same subject matter only if the requirement is the same as the regulation.

(3) In consultation with the working group, the Secretary shall develop a procedure to eliminate differences in how States carry out a regulation prescribed under this subsection.

(d) RELATIONSHIP TO OTHER LAWS.—The Federal Advisory Committee Act (5 App. U.S.C.) does not apply to the working group.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 777; Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5119(a)	49 App.:1819(a).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 121(a)–(g); added Nov. 16, 1990, Pub. L. 101–615, § 22, 104 Stat. 3271; Oct. 24, 1992, Pub. L. 102–508, § 507, 106 Stat. 3312.
5119(b)	49 App.:1819(b), (c).	
5119(c)(1)	49 App.:1819(d).	
5119(c)(2)	49 App.:1819(e).	
5119(c)(3)	49 App.:1819(f).	
5119(d)	49 App.:1819(g).	

In subsection (a), before clause (1), the words ''As soon as practicable after November 16, 1990'' are omitted as obsolete.

In subsection (c)(1), the words ''Subject to the provisions of this subsection'' and ''to the Secretary'' are omitted as surplus.

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (d), 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. (b)(2), Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5102, 5127 of this title.

§ 5120. International uniformity of standards and requirements

(a) PARTICIPATION IN INTERNATIONAL FORUMS.—Subject to guidance and direction from the Sec-

retary of State, the Secretary of Transportation shall participate in international forums that establish or recommend mandatory standards and requirements for transporting hazardous material in international commerce.

(b) CONSULTATION.—The Secretary of Transportation may consult with interested authorities to ensure that, to the extent practicable, regulations the Secretary prescribes under sections 5103(b), 5104, 5110, and 5112 of this title are consistent with standards related to transporting hazardous material that international authorities adopt.

(c) DIFFERENCES WITH INTERNATIONAL STANDARDS AND REQUIREMENTS.—This section—

(1) does not require the Secretary of Transportation to prescribe a standard identical to a standard adopted by an international authority if the Secretary decides the standard is unnecessary or unsafe; and

(2) does not prohibit the Secretary from prescribing a safety requirement more stringent than a requirement included in a standard adopted by an international authority if the Secretary decides the requirement is necessary in the public interest.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 778.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5120(a)	49 App.:1804(d)(1).	Jan. 3, 1975, Pub. L. 93–633, §105(d), 88 Stat. 2157; restated Nov. 16, 1990, Pub. L. 101–615 §4, 104 Stat. 3252.
5120(b)	49 App.:1804(d)(2) (1st sentence).	
5120(c)	49 App.:1804(d)(2) (last sentence).	

§ 5121. Administrative

(a) GENERAL AUTHORITY.—To carry out this chapter, the Secretary of Transportation may investigate, make reports, issue subpenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities. After notice and an opportunity for a hearing, the Secretary may issue an order requiring compliance with this chapter or a regulation prescribed under this chapter.

(b) RECORDS, REPORTS, AND INFORMATION.—A person subject to this chapter shall—

(1) maintain records, make reports, and provide information the Secretary by regulation or order requires; and

(2) make the records, reports, and information available when the Secretary requests.

(c) INSPECTION.—(1) The Secretary may authorize an officer, employee, or agent to inspect, at a reasonable time and in a reasonable way, records and property related to—

(A) manufacturing, fabricating, marking, maintaining, reconditioning, repairing, testing, or distributing a packaging or a container for use by a person in transporting hazardous material in commerce; or

(B) the transportation of hazardous material in commerce.

(2) An officer, employee, or agent under this subsection shall display proper credentials when requested.

(d) FACILITY, STAFF, AND REPORTING SYSTEM ON RISKS, EMERGENCIES, AND ACTIONS.—(1) The Secretary shall—

(A) maintain a facility and technical staff sufficient to provide, within the United States Government, the capability of evaluating a risk related to the transportation of hazardous material and material alleged to be hazardous;

(B) maintain a central reporting system and information center capable of providing information and advice to law enforcement and firefighting personnel, other interested individuals, and officers and employees of the Government and State and local governments on meeting an emergency related to the transportation of hazardous material; and

(C) conduct a continuous review on all aspects of transporting hazardous material to decide on and take appropriate actions to ensure safe transportation of hazardous material.

(2) Paragraph (1) of this subsection does not prevent the Secretary from making a contract with a private entity for use of a supplemental reporting system and information center operated and maintained by the contractor.

(e) REPORT.—The Secretary shall, once every 2 years, prepare and submit to the President for transmittal to the Congress a comprehensive report on the transportation of hazardous materials during the preceding 2 calendar years. The report shall include—

(1) a statistical compilation of accidents and casualties related to the transportation of hazardous material;

(2) a list and summary of applicable Government regulations, criteria, orders, and exemptions;

(3) a summary of the basis for each exemption;

(4) an evaluation of the effectiveness of enforcement activities and the degree of voluntary compliance with regulations;

(5) a summary of outstanding problems in carrying out this chapter in order of priority; and

(6) recommendations for appropriate legislation.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 779; Pub. L. 103–311, title I, §§108, 117(a)(2), Aug. 26, 1994, 108 Stat. 1674, 1678.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5121(a)	49 App.:1808(a) (1st sentence, last sentence words before semicolon).	Jan. 3, 1975, Pub. L. 93–633, §109(a) (1st sentence, last sentence words before semicolon), (b), (c), 88 Stat. 2159.
5121(b)	49 App.:1808(b).	
5121(c)	49 App.:1808(c).	
5121(d)	49 App.:1808(d).	Jan. 3, 1975, Pub. L. 93–633, §109(d), 88 Stat. 2159; Oct. 30, 1984, Pub. L. 98–559, §1(a), 98 Stat. 2907; Nov. 16, 1990, Pub. L. 101–615, §11, 104 Stat. 3259.
5121(e)	49 App.:1808(e).	Jan. 3, 1975, Pub. L. 93–633, §109(e), 88 Stat. 2159; Oct. 30, 1984, Pub. L. 98–559, §1(b), 98 Stat. 2907.

In subsection (a), the words ''to the extent necessary . . . his responsibilities under'' and ''relevant'' are omitted as surplus. The word ''documents'' is omitted

as being included in ''records''. The words ''directly or indirectly'' are omitted as surplus. The word ''prescribed'' is substituted for ''issued'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), before clause (1), the words ''requirements under'' are omitted as surplus. In clause (1), the words ''establish and'' are omitted as surplus. The word ''requires'' is substituted for ''prescribe'' for clarity and consistency.

In subsection (c)(1), before clause (A), the words ''enter upon . . . and examine'' and ''of persons to the extent such records and properties'' are omitted as surplus. In clause (B), the words ''or shipment by any person'' are omitted as surplus.

In subsection (d)(1), before clause (A), the words ''establish and'' are omitted as executed. In clause (B), the words ''capable of'' are substituted for ''so as to be able to'' to eliminate unnecessary words. The words ''technical and other'' and ''of communities'' are omitted as surplus. The words ''and employees'' are added for consistency in the revised title and with other titles of the Code. In clause (C), the words ''in order'' and ''to be able to'' are omitted as surplus.

In subsection (e), before clause (1), the words ''prepare and'' and ''comprehensive'' are omitted as surplus. In clause (1), the word ''thorough'' is omitted as surplus. In clause (2), the words ''in effect'' are omitted as surplus. In clause (3), the words ''granted or maintained'' are omitted as surplus. In clause (6), the words ''additional . . . as are deemed necessary or'' are omitted as surplus.

AMENDMENTS

1994—Subsec. (c)(1)(A). Pub. L. 103–311, § 117(a)(2), substituted ''a packaging or a'' for ''a package or''.

Subsec. (e). Pub. L. 103–311, § 108, substituted ''Report'' for ''Annual Report'' in heading and substituted first sentence for former first sentence which read as follows: ''The Secretary shall submit to the President, for submission to Congress, not later than June 15th of each year, a report about the transportation of hazardous material during the prior calendar year.''

TOLL FREE NUMBER FOR REPORTING

Section 116 of Pub. L. 103–311 provided that: ''The Secretary of Transportation shall designate a toll free telephone number for transporters of hazardous materials and other individuals to report to the Secretary possible violations of chapter 51 of title 49, United States Code, or any order or regulation issued under that chapter.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5710 of this title.

§ 5122. Enforcement

(a) GENERAL.—At the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including punitive damages.

(b) IMMINENT HAZARDS.—(1) If the Secretary has reason to believe that an imminent hazard exists, the Secretary may bring a civil action in an appropriate district court of the United States—

(A) to suspend or restrict the transportation of the hazardous material responsible for the hazard; or

(B) to eliminate or ameliorate the hazard.

(2) On request of the Secretary, the Attorney General shall bring an action under paragraph (1) of this subsection.

(c) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or individual in charge of a vessel is liable for a civil penalty under section 5123 of this title or for a fine under section 5124 of this title, or if reasonable cause exists to believe that such owner, operator, or individual in charge may be subject to such a civil penalty or fine, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

(2) Clearance refused or revoked under this subsection may be granted upon the filing of a bond or other surety satisfactory to the Secretary.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 780; Pub. L. 104–324, title III, § 312(a), Oct. 19, 1996, 110 Stat. 3920.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5122(a)	49 App.:1808(a) (last sentence words after semicolon). 49 App.:1810(a).	Jan. 3, 1975, Pub. L. 93–633, §§ 109(a) (last sentence words after semicolon), 111(a), 88 Stat. 2159, 2161.
5122(b)	49 App.:1810(b).	Jan. 3, 1975, Pub. L. 93–633, § 111(b), 88 Stat. 2161; Nov. 16, 1990, Pub. L. 101–615, § 3(b), 104 Stat. 3247.

In this section, the words ''bring a civil action'' are substituted for ''bring an action in'' in 49 App.:1810 and ''petition . . . for an order . . . for such other order'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a), the text of 49 App.:1808(a) (last sentence words after semicolon) and the words ''for equitable relief'' in 49 App.:1810(a) are omitted as surplus. The words ''enforce this chapter'' are substituted for ''redress a violation by any person of a provision of this chapter'' to eliminate unnecessary words. The words ''regulation prescribed or order issued'' are substituted for ''order or regulation issued'' for consistency in the revised title and with other titles of the Code. The words ''The court may award appropriate relief, including'' are substituted for ''Such district courts shall have jurisdiction to determine such actions and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and'' to eliminate unnecessary words.

In subsection (b)(1), before clause (A), the words ''as is necessary'' are omitted as surplus.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–324 added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5711 of this title.

§ 5123. Civil penalty

(a) PENALTY.—(1) A person that knowingly violates this chapter or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of at least $250 but not more than $25,000 for each violation. A person acts knowingly when—

(A) the person has actual knowledge of the facts giving rise to the violation; or

(B) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge.

(2) A separate violation occurs for each day the violation, committed by a person that trans-

ports or causes to be transported hazardous material, continues.

(b) HEARING REQUIREMENT.—The Secretary of Transportation may find that a person has violated this chapter or a regulation prescribed under this chapter only after notice and an opportunity for a hearing. The Secretary shall impose a penalty under this section by giving the person written notice of the amount of the penalty.

(c) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section, the Secretary shall consider—

(1) the nature, circumstances, extent, and gravity of the violation;

(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue to do business; and

(3) other matters that justice requires.

(d) CIVIL ACTIONS TO COLLECT.—The Attorney General may bring a civil action in an appropriate district court of the United States to collect a civil penalty under this section.

(e) COMPROMISE.—The Secretary may compromise the amount of a civil penalty imposed under this section before referral to the Attorney General.

(f) SETOFF.—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(g) DEPOSITING AMOUNTS COLLECTED.—Amounts collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 780.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5123(a)(1)	49 App.:1809(a)(1) (1st sentence less 3d–16th words, 2d sentence words before 4th comma, 3d sentence).	Jan. 3, 1975, Pub. L. 93–633, §110(a)(1), 88 Stat. 2160; Nov. 16, 1990, Pub. L. 101–615, §12(a)(1), 104 Stat. 3259.
	49 App.:1809(a)(3).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §110(a)(3); added Nov. 16, 1990, Pub. L. 101–615, §12(a)(2), 104 Stat. 3259.
5123(a)(2)	49 App.:1809(a)(1) (2d sentence words after 4th comma).	
5123(b)	49 App.:1809(a)(1) (1st sentence 3d–16th words, 4th sentence).	
5123(c)	49 App.:1809(a)(1) (last sentence).	
5123(d), (e)	49 App.:1809(a)(2) (1st sentence).	Jan. 3, 1975, Pub. L. 93–633, §110(a)(2), 88 Stat. 2160.
5123(f)	49 App.:1809(a)(2) (2d sentence).	
5123(g)	49 App.:1809(a)(2) (last sentence).	

In subsection (a)(1), before clause (1), the words ''A person that knowingly violates this chapter or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of at least $250 but not more than $25,000 for each violation'' are substituted for 49 App.:1809(a)(1) (1st sentence less 3d–16th words, 2d sentence words before 4th comma, 3d sentence) to eliminate unnecessary words.

In subsection (b), the word ''impose'' is substituted for ''assessed'' for consistency.

In subsection (c)(2), the words ''the violator'' are substituted for ''the person found to have committed such violation'' to eliminate unnecessary words.

In subsection (f), the words ''imposed or compromised'' are substituted for ''of such penalty, when finally determined (or agreed upon in compromise)'' to eliminate unnecessary words and for consistency. The words ''liable for the penalty'' are substituted for ''charged'' for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5102, 5122, 5711 of this title.

§ 5124. Criminal penalty

A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 781.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5124	49 App.:1809(b).	Jan. 3, 1975, Pub. L. 93–633, §110(b), 88 Stat. 2161; restated Nov. 16, 1990, Pub. L. 101–615, §12(b), 104 Stat. 3259.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5102, 5122, 5711 of this title.

§ 5125. Preemption

(a) GENERAL.—Except as provided in subsections (b), (c), and (e) of this section and unless authorized by another law of the United States, a requirement of a State, political subdivision of a State, or Indian tribe is preempted if—

(1) complying with a requirement of the State, political subdivision, or tribe and a requirement of this chapter or a regulation prescribed under this chapter is not possible; or

(2) the requirement of the State, political subdivision, or tribe, as applied or enforced, is an obstacle to accomplishing and carrying out this chapter or a regulation prescribed under this chapter.

(b) SUBSTANTIVE DIFFERENCES.—(1) Except as provided in subsection (c) of this section and unless authorized by another law of the United States, a law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe about any of the following subjects, that is not substantively the same as a provision of this chapter or a regulation prescribed under this chapter, is preempted:

(A) the designation, description, and classification of hazardous material.

(B) the packing, repacking, handling, labeling, marking, and placarding of hazardous material.

(C) the preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents.

(D) the written notification, recording, and reporting of the unintentional release in transportation of hazardous material.

(E) the design, manufacturing, fabricating, marking, maintenance, reconditioning, repair-

ing, or testing of a packaging or a container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

(2) If the Secretary of Transportation prescribes or has prescribed under section 5103(b), 5104, 5110, or 5112 of this title or prior comparable provision of law a regulation or standard related to a subject referred to in paragraph (1) of this subsection, a State, political subdivision of a State, or Indian tribe may prescribe, issue, maintain, and enforce only a law, regulation, standard, or order about the subject that is substantively the same as a provision of this chapter or a regulation prescribed or order issued under this chapter. The Secretary shall decide on and publish in the Federal Register the effective date of section 5103(b) of this title for any regulation or standard about any of those subjects that the Secretary prescribes after November 16, 1990. However, the effective date may not be earlier than 90 days after the Secretary prescribes the regulation or standard nor later than the last day of the 2-year period beginning on the date the Secretary prescribes the regulation or standard.

(3) If a State, political subdivision of a State, or Indian tribe imposes a fine or penalty the Secretary decides is appropriate for a violation related to a subject referred to in paragraph (1) of this subsection, an additional fine or penalty may not be imposed by any other authority.

(c) COMPLIANCE WITH SECTION 5112(b) REGULATIONS.—(1) Except as provided in paragraph (2) of this subsection, after the last day of the 2-year period beginning on the date a regulation is prescribed under section 5112(b) of this title, a State or Indian tribe may establish, maintain, or enforce a highway routing designation over which hazardous material may or may not be transported by motor vehicles, or a limitation or requirement related to highway routing, only if the designation, limitation, or requirement complies with section 5112(b).

(2)(A) A highway routing designation, limitation, or requirement established before the date a regulation is prescribed under section 5112(b) of this title does not have to comply with section 5112(b)(1)(B), (C), and (F).

(B) This subsection and section 5112 of this title do not require a State or Indian tribe to comply with section 5112(b)(1)(I) if the highway routing designation, limitation, or requirement was established before November 16, 1990.

(C) The Secretary may allow a highway routing designation, limitation, or requirement to continue in effect until a dispute related to the designation, limitation, or requirement is resolved under section 5112(d) of this title.

(d) DECISIONS ON PREEMPTION.—(1) A person (including a State, political subdivision of a State, or Indian tribe) directly affected by a requirement of a State, political subdivision, or tribe may apply to the Secretary, as provided by regulations prescribed by the Secretary, for a decision on whether the requirement is preempted by subsection (a), (b)(1), or (c) of this section. The Secretary shall publish notice of the application in the Federal Register. The Secretary shall issue a decision on an application for a determination within 180 days after the date of the publication of the notice of having received such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the application is delayed, along with an estimate of the additional time necessary before the decision is made. After notice is published, an applicant may not seek judicial relief on the same or substantially the same issue until the Secretary takes final action on the application or until 180 days after the application is filed, whichever occurs first.

(2) After consulting with States, political subdivisions of States, and Indian tribes, the Secretary shall prescribe regulations for carrying out paragraph (1) of this subsection.

(3) Subsection (a) of this section does not prevent a State, political subdivision of a State, or Indian tribe, or another person directly affected by a requirement, from seeking a decision on preemption from a court of competent jurisdiction instead of applying to the Secretary under paragraph (1) of this subsection.

(e) WAIVER OF PREEMPTION.—A State, political subdivision of a State, or Indian tribe may apply to the Secretary for a waiver of preemption of a requirement the State, political subdivision, or tribe acknowledges is preempted by subsection (a), (b)(1), or (c) of this section. Under a procedure the Secretary prescribes by regulation, the Secretary may waive preemption on deciding the requirement—

(1) provides the public at least as much protection as do requirements of this chapter and regulations prescribed under this chapter; and

(2) is not an unreasonable burden on commerce.

(f) JUDICIAL REVIEW.—A party to a proceeding under subsection (d) or (e) of this section may bring a civil action in an appropriate district court of the United States for judicial review of the decision of the Secretary not later than 60 days after the decision becomes final.

(g) FEES.—(1) A State, political subdivision of a State, or Indian tribe may impose a fee related to transporting hazardous material only if the fee is fair and used for a purpose related to transporting hazardous material, including enforcement and planning, developing, and maintaining a capability for emergency response.

(2) A State or political subdivision thereof or Indian tribe that levies a fee in connection with the transportation of hazardous materials shall, upon the Secretary's request, report to the Secretary on—

(A) the basis on which the fee is levied upon persons involved in such transportation;

(B) the purposes for which the revenues from the fee are used;

(C) the annual total amount of the revenues collected from the fee; and

(D) such other matters as the Secretary requests.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 781; Pub. L. 103–311, title I, §§ 107, 117(a)(2), 120(b), Aug. 26, 1994, 108 Stat. 1674, 1678, 1681; Pub. L. 103–429, § 6(6), Oct. 31, 1994, 108 Stat. 4378.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5125(a)	49 App.:1811(a).	Jan. 3, 1975, Pub. L. 93–633, §112(a)–(e), 88 Stat. 2161; Nov. 30, 1979, Pub. L. 96–129, §216(a), 93 Stat. 1015; restated Nov. 16, 1990, Pub. L. 101–615, §13, 104 Stat. 3259.
5125(b)	49 App.:1804(a)(4), (5).	Jan. 3, 1975, Pub. L. 93–633, §105(a)(4), (5), (b)(4), 88 Stat. 2157; restated Nov. 16, 1990, Pub. L. 101–615, §4, 104 Stat. 3247, 3250.
5125(c)	49 App.:1804(b)(4).	
5125(d)	49 App.:1811(c).	
5125(e)	49 App.:1811(d).	
5125(f)	49 App.:1811(e).	
5125(g)	49 App.:1811(b).	

In subsections (a) and (b)(1), the words ''and unless authorized by Federal law'' are omitted as surplus.

In subsection (a), before clause (1), the reference to subsections (b) and (c) is substituted for 49 App.:1811(a)(3) for clarity.

In subsection (b)(1), before clause (A), the words ''ruling, provision'' are omitted as surplus.

In subsection (b)(3), the word ''imposes'' is substituted for ''assesses'' for consistency.

In subsection (c)(1), the words ''the procedural requirements of'' and ''the substantive requirements of'' are omitted as surplus.

In subsection (c)(2)(A), the words ''procedural requirements of the Federal standards established pursuant to'' are omitted as surplus.

In subsection (f), the words ''may bring a civil action for judicial review'' are substituted for ''may seek judicial review . . . only by filing a petition'' for consistency in the revised title.

PUB. L. 103–429

This amends 49:5125(a) and (b)(1) to clarify the restatement of 49 App.:1804(a)(4) and 1811(a) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 781).

AMENDMENTS

1994—Subsecs. (a), (b)(1). Pub. L. 103–429 inserted ''and unless authorized by another law of the United States'' after ''section'' in introductory provisions.

Subsec. (b)(1)(E). Pub. L. 103–311, §117(a)(2), substituted ''a packaging or a'' for ''a package or''.

Subsec. (d). Pub. L. 103–311, §120(b), inserted after second sentence ''The Secretary shall issue a decision on an application for a determination within 180 days after the date of the publication of the notice of having received such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the application is delayed, along with an estimate of the additional time necessary before the decision is made.''

Subsec. (g). Pub. L. 103–311, §107, designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5112, 5712 of this title.

§ 5126. Relationship to other laws

(a) CONTRACTS.—A person under contract with a department, agency, or instrumentality of the United States Government that transports or causes to be transported hazardous material, or manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a packaging or a container that the person represents, marks, certifies, or sells as qualified for use in transporting hazardous material must comply with this chapter, regulations prescribed and orders issued under this chapter, and all other requirements of the Government, State and local governments, and Indian tribes (except a requirement preempted by a law of the United States) in the same way and to the same extent that any person engaging in that transportation, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing that is in or affects commerce must comply with the provision, regulation, order, or requirement.

(b) NONAPPLICATION.—This chapter does not apply to—

(1) a pipeline subject to regulation under chapter 601 of this title; or

(2) any matter that is subject to the postal laws and regulations of the United States under this chapter or title 18 or 39.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 783; Pub. L. 103–311, title I, §117(a)(2), Aug. 26, 1994, 108 Stat. 1678.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5126(a)	49 App.:1818.	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §120; added Nov. 16, 1990, Pub. L. 101–615, §20, 104 Stat. 3270.
5126(b)	49 App.:1811(f).	Jan. 3, 1975, Pub. L. 93–633, §112(f), 88 Stat. 2161; Nov. 30, 1979, Pub. L. 96–129, §216(a), 93 Stat. 1015; restated Nov. 16, 1990, Pub. L. 101–615, §13, 104 Stat. 3260.

In subsection (a), the word ''manufactures'' is substituted for ''manufacturers'' to correct an error in the source provisions. The words ''of the executive, legislative, or judicial branch'', ''be subject to and'', ''substantive and procedural'', and ''this chapter or any other'' are omitted as surplus.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–311 substituted ''a packaging or a'' for ''a package or''.

§ 5127. Authorization of appropriations

(a) GENERAL.—Not more than $18,000,000 may be appropriated to the Secretary of Transportation for fiscal year 1993, $18,000,000 for fiscal year 1994, $18,540,000 for fiscal year 1995, $19,100,000 for fiscal year 1996, and $19,670,000 for fiscal year 1997 to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119).

(b) TRAINING OF HAZMAT EMPLOYEE INSTRUCTORS.—(1) There is authorized to be appropriated to the Secretary $3,000,000 for each of fiscal years 1995, 1996, 1997, and 1998 to carry out section 5107(e).

(2)(A) There shall be available to the Secretary for carrying out section 5116(j), from amounts in the account established pursuant to section 5116(i), $250,000 for each of fiscal years 1995, 1996, 1997, and 1998.

(B) In addition to amounts made available under subparagraph (A), there is authorized to be appropriated to the Secretary for carrying

out section 5116(j) $1,000,000 for each of the fiscal years 1995, 1996, 1997, and 1998.

(c) TRAINING CURRICULUM.—(1) Not more than $1,000,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for each of the fiscal years ending September 30, 1993–1998, to carry out section 5115 of this title.

(2) The Secretary of Transportation may transfer to the Director of the Federal Emergency Management Agency from amounts available under this subsection amounts necessary to carry out section 5115(d)(1) of this title.

(d) PLANNING AND TRAINING.—(1) Not more than $5,000,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for each of the fiscal years ending September 30, 1993–1998, to carry out section 5116(a) of this title.

(2) Not more than $7,800,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for each of the fiscal years ending September 30, 1993–1998, to carry out section 5116(b) of this title.

(3) Not more than the following amounts are available from the account established under section 5116(i) of this title for each of the fiscal years ending September 30, 1993–1998, to carry out section 5116(f) of this title:

(A) $750,000 each to the Secretaries of Transportation and Energy, Administrator of the Environmental Protection Agency, and Director of the Federal Emergency Management Agency.

(B) $200,000 to the Director of the National Institute of Environmental Health Sciences.

(e) UNIFORM FORMS AND PROCEDURES.—Not more than $400,000 may be appropriated to the Secretary of Transportation for the fiscal year ending September 30, 1993, to carry out section 5119 of this title.

(f) CREDITS TO APPROPRIATIONS.—The Secretary of Transportation may credit to any appropriation to carry out this chapter an amount received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

(g) AVAILABILITY OF AMOUNTS.—Amounts available under subsections (c)–(e) of this section remain available until expended.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 783; Pub. L. 103–311, title I, §§103, 119(b), (c)(4), Aug. 26, 1994, 108 Stat. 1673, 1680.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5127(a)	49 App.:1812(a).	Jan. 3, 1975, Pub. L. 93–633, §115, 88 Stat. 2164; July 19, 1975, Pub. L. 94–56, §4, 89 Stat. 264; Oct. 11, 1976, Pub. L. 94–474, §3, 90 Stat. 2068; Sept. 30, 1978, Pub. L. 95–403, 92 Stat. 863; Oct. 30, 1984, Pub. L. 98–559, §2, 98 Stat. 2907; restated Nov. 16, 1990, Pub. L. 101–615, §14, 104 Stat. 3260; Oct. 24, 1992, Pub. L. 102–508, §504, 106 Stat. 3311.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5127(b)	49 App.:1816(d).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §118(d); added Nov. 16, 1990, Pub. L. 101–615, §18, 104 Stat. 3269; Oct. 24, 1992, Pub. L. 102–508, §506, 106 Stat. 3312.
5127(c)	49 App.:1815(i)(3).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §117A(i); added Nov. 16, 1990, Pub. L. 101–615, §17, 104 Stat. 3268.
5127(d)	49 App.:1815(i)(1), (2), (4).	
5127(e)	49 App.:1819(h) (1st sentence).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §121(h); added Nov. 16, 1990, Pub. L. 101–615, §22, 104 Stat. 3272.
5127(f)	49 App.:1812(b).	
5127(g)	49 App.:1815(i)(5). 49 App.:1819(h) (last sentence).	

In the section, references to fiscal years 1991 and 1992 are omitted as obsolete.

In subsections (b), (c)(1), and (d), the words ''amounts in'' are omitted as surplus.

In subsection (c), the text of 49 App.:1815(i)(3)(A) is omitted as obsolete.

In subsection (c)(2), the words ''relating to dissemination of the curriculum'' are omitted as surplus.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–311, §103, substituted ''fiscal year 1993, $18,000,000 for fiscal year 1994, $18,540,000 for fiscal year 1995, $19,100,000 for fiscal year 1996, and $19,670,000 for fiscal year 1997'' for ''the fiscal year ending September 30, 1993,''.

Subsec. (b). Pub. L. 103–311, §119(c)(4), amended subsec. (b)(1) generally. Prior to amendment, subsec. (b)(1) read as follows:

''(b) HAZMAT EMPLOYEE TRAINING.—(1) Not more than $250,000 is available to the Director of the National Institute of Environmental Health Sciences from the account established under section 5116(i) of this title for each of the fiscal years ending September 30, 1993–1998, to carry out section 5107(e) of this title.''

Pub. L. 103–311, §119(b), designated existing provisions as par. (1) and added par. (2).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5107 of this title.

CHAPTER 53—MASS TRANSPORTATION

Sec.
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5336. Apportionment of appropriations for block grants.
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5338. Authorizations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 23 sections 103, 133, 134, 135, 142; title 40 section 819; title 42 section 7506.

§ 5301. Policies, findings, and purposes

(a) DEVELOPMENT OF TRANSPORTATION SYSTEMS.—It is in the interest of the United States to encourage and promote the development of transportation systems that embrace various modes of transportation and efficiently maximize mobility of individuals and goods in and through urbanized areas and minimize transportation-related fuel consumption and air pollution.

(b) GENERAL FINDINGS.—Congress finds that—

(1) more than 70 percent of the population of the United States is located in rapidly expanding urban areas that generally cross the boundary lines of local jurisdictions and often extend into at least 2 States;

(2) the welfare and vitality of urban areas, the satisfactory movement of people and goods within those areas, and the effectiveness of programs aided by the United States Government are jeopardized by deteriorating or inadequate urban transportation service and facilities, the intensification of traffic congestion, and the lack of coordinated, comprehensive, and continuing development planning;

(3) transportation is the lifeblood of an urbanized society, and the health and welfare of an urbanized society depend on providing efficient, economical, and convenient transportation in and between urban areas;

(4) for many years the mass transportation industry capably and profitably satisfied the transportation needs of the urban areas of the United States but in the early 1970's continuing even minimal mass transportation service in urban areas was threatened because maintaining that transportation service was financially burdensome;

(5) ending that transportation, or the continued increase in its cost to the user, is undesirable and may affect seriously and adversely the welfare of a substantial number of lower income individuals;

(6) some urban areas were developing preliminary plans for, or carrying out, projects in the early 1970's to revitalize their mass transportation operations;

(7) significant mass transportation improvements are necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly individuals, individuals with disabilities, and economically disadvantaged individuals in urban and rural areas of the United States;

(8) financial assistance by the Government to develop efficient and coordinated mass transportation systems is essential to solve the urban transportation problems referred to in clause (2) of this subsection; and

(9) immediate substantial assistance by the Government is needed to enable mass transportation systems to continue providing vital transportation service.

(c) RAPID URBANIZATION AND CONTINUING POPULATION DISPERSAL.—Rapid urbanization and continuing dispersal of the population and activities in urban areas have made the ability of all citizens to move quickly and at a reasonable cost an urgent problem of the Government.

(d) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.—It is the policy of the Government that elderly individuals and individuals with disabilities have the same right as other individuals to use mass transportation service and facilities. Special efforts shall be made in planning and designing mass transportation service and facilities to ensure that mass transportation can be used by elderly individuals and individuals with disabilities. All programs of the Government assisting mass transportation shall carry out this policy.

(e) PRESERVING THE ENVIRONMENT.—It is the policy of the Government that special effort shall be made to preserve the natural beauty of the countryside, public park and recreation lands, wildlife and waterfowl refuges, and important historical and cultural assets when planning, designing, and carrying out an urban mass transportation capital project with assistance from the Government under sections 5309 and 5310 of this title.

(f) GENERAL PURPOSES.—The purposes of this chapter are—

(1) to assist in developing improved mass transportation equipment, facilities, techniques, and methods with the cooperation of public and private mass transportation companies;

(2) to encourage the planning and establishment of areawide urban mass transportation systems needed for economical and desirable urban development with the cooperation of public and private mass transportation companies;

(3) to assist States and local governments and their authorities in financing areawide urban mass transportation systems that are to be operated by public or private mass transportation companies as decided by local needs;

(4) to provide financial assistance to State and local governments and their authorities to help carry out national goals related to mobility for elderly individuals, individuals with

disabilities, and economically disadvantaged individuals; and

(5) to establish a partnership that allows a community, with financial assistance from the Government, to satisfy its urban mass transportation requirements.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 785.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5301(a)	49 App.:1607(a) (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 8(a) (1st sentence); added Nov. 6, 1978, Pub. L. 95–599, § 305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, § 310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, § 3012, 105 Stat. 2098.
5301(b)	49 App.:1601(a).	July 9, 1964, Pub. L. 88–365, § 2, 78 Stat. 302; Dec. 18, 1991, Pub. L. 102–240, § 3005, 105 Stat. 2088.
	49 App.:1601b.	Nov. 26, 1974, Pub. L. 93–503, § 2, 88 Stat. 1566.
5301(c)	49 App.:1601a (1st sentence).	Oct. 15, 1970, Pub. L. 91–453, § 1, 84 Stat. 962.
5301(d)	49 App.:1612(a).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 16(a); added Oct. 15, 1970, Pub. L. 91–453, § 8, 84 Stat. 967; Dec. 18, 1991, Pub. L. 102–240, § 3021(1), 105 Stat. 2110.
5301(e)	49 App.:1610(a) (1st sentence).	July 9, 1964, Pub. L. 88–365, § 14(a) (1st sentence), 78 Stat. 308; Sept. 8, 1966, Pub. L. 89–562, § 2(a)(1), 80 Stat. 715; restated Oct. 15, 1970, Pub. L. 91–453, § 6, 84 Stat. 966.
5301(f)	49 App.:1601(b). 49 App.:1601a (last sentence).	

In subsection (b)(1), the words ''the predominant part'' in 49 App.:1601(a)(1) and ''lives in urban areas'' in 49 App.:1601b(1) are omitted because of the restatement. The words ''metropolitan and other'' in 49 App.:1601(a)(1) are omitted as surplus.

In subsection (b)(2), the words ''housing, urban renewal, highway, and other'', ''being'', ''the . . . provision of'', and ''transportation and other'' in 49 App.:1601(a)(2) are omitted as surplus.

In subsection (b)(4), the words ''the early 1970's'' are substituted for ''recent years'' in 49 App.:1601b(4), and the words ''minimal mass transportation service'' are substituted for ''this essential public service'', for clarity.

In subsection (b)(5), the word ''particularly'' in 49 App.:1601b(5) is omitted as surplus.

In subsection (b)(6), the words ''were . . . in the early 1970's'' are substituted for ''now'' in 49 App.:1601b(6) for clarity. The words ''engaged in'', ''actually'', and ''comprehensive'' in 49 App.:1601b(6) are omitted as surplus.

In subsection (b)(9), the word ''many'' in 49 App.:1601(b)(7) is omitted as surplus.

In subsection (c), the text of 49 App.:1601a (1st sentence words after semicolon) is omitted as executed.

In subsections (d) and (e), the words ''hereby declared to be'' are omitted as surplus.

In subsection (d), the words ''to ensure that mass transportation can be used by elderly individuals and individuals with disabilities'' are substituted for ''in the planning and design of mass transportation facilities and services so that the availability to elderly persons and persons with disabilities of mass transportation which they can effectively utilize will be assured'' to eliminate unnecessary words. The words ''the field of'' and ''(including the programs under this chapter) . . . contain provisions'' are omitted as surplus.

In subsection (e), the words ''carrying out'' are substituted for ''construction of'', and the word ''capital'' is added, for consistency in the revised chapter. The reference to section 5310 of the revised title is added for clarity because a loan or grant made under section 5310 is deemed to have been made under section 5309.

In subsection (f)(5), the words ''local'' and ''to exercise the initiative necessary'' are omitted as surplus.

COMMUTE-TO-WORK BENEFITS

Pub. L. 102–240, title VIII, § 8004, Dec. 18, 1991, 105 Stat. 2206, provided that:

''(a) FINDINGS.—The Congress finds that—

''(1) current Federal policy places commuter transit benefits at a disadvantage compared to drive-to-work benefits;

''(2) this Federal policy is inconsistent with important national policy objectives, including the need to conserve energy, reduce reliance on energy imports, lessen congestion, and clean our Nation's air;

''(3) commuter transit benefits should be part of a comprehensive solution to national transportation and air pollution problems;

''(4) current Federal law allows employers to provide only up to $21 per month in employee benefits for transit or van pools;

''(5) the current 'cliff provision', which treats an entire commuter transit benefit as taxable income if it exceeds $21 per month, unduly penalizes the most effective employer efforts to change commuter behavior;

''(6) employer-provided commuter transit incentives offer many public benefits, including increased access of low-income persons to good jobs, inexpensive reduction of roadway and parking congestion, and cost-effective incentives for timely arrival at work; and

''(7) legislation to provide equitable treatment of employer-provided commuter transit benefits has been introduced with bipartisan support in both the Senate and House of Representatives.

''(b) POLICY.—The Congress strongly supports Federal policy that promotes increased use of employer-provided commuter transit benefits. Such a policy 'levels the playing field' between transportation modes and is consistent with important national objectives of energy conservation, reduced reliance on energy imports, lessened congestion, and clean air.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5303, 5307, 5310, 5324 of this title.

§ 5302. Definitions

(a) GENERAL.—In this chapter—

(1) ''capital project'' means a project for—

(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in mass transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights of way), payments for the capital portions of rail trackage rights agreements, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

(B) rehabilitating a bus;

(C) remanufacturing a bus; or

(D) overhauling rail rolling stock.

(2) ''chief executive officer of a State'' includes the designee of the chief executive officer.

(3) ''emergency regulation'' means a regulation—

(A) that is effective temporarily before the expiration of the otherwise specified periods of time for public notice and comment under section 5334(b) of this title; and

(B) prescribed by the Secretary of Transportation as the result of a finding that a delay in the effective date of the regulation—

(i) would injure seriously an important public interest;

(ii) would frustrate substantially legislative policy and intent; or

(iii) would damage seriously a person or class without serving an important public interest.

(4) ''fixed guideway'' means a mass transportation facility—

(A) using and occupying a separate right of way or rail for the exclusive use of mass transportation and other high occupancy vehicles; or

(B) using a fixed catenary system and a right of way usable by other forms of transportation.

(5) ''handicapped individual'' means an individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use effectively, without special facilities, planning, or design, mass transportation service or a mass transportation facility.

(6) ''local governmental authority'' includes—

(A) a political subdivision of a State;

(B) an authority of at least one State or political subdivision of a State;

(C) an Indian tribe; and

(D) a public corporation, board, or commission established under the laws of a State.

(7) ''mass transportation'' means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include schoolbus, charter, or sightseeing transportation.

(8) ''net project cost'' means the part of a project that reasonably cannot be financed from revenues.

(9) ''new bus model'' means a bus model (including a model using alternative fuel)—

(A) that has not been used in mass transportation in the United States before the date of production of the model; or

(B) used in mass transportation in the United States but being produced with a major change in configuration or components.

(10) ''regulation'' means any part of a statement of general or particular applicability of the Secretary of Transportation designed to carry out, interpret, or prescribe law or policy in carrying out this chapter.

(11) ''State'' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(12) ''urban area'' means an area that includes a municipality or other built-up place that the Secretary of Transportation, after considering local patterns and trends of urban growth, decides is appropriate for a local mass transportation system to serve individuals in the locality.

(13) ''urbanized area'' means an area—

(A) encompassing at least an urbanized area within a State that the Secretary of Commerce designates; and

(B) designated an urbanized area within boundaries fixed by State and local officials and approved by the Secretary of Transportation.

(b) AUTHORITY TO MODIFY ''HANDICAPPED INDIVIDUAL''.—The Secretary of Transportation by regulation may modify the definition of subsection (a)(5) of this section as it applies to section 5307(d)(1)(D) of this title.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 786; Pub. L. 103–331, title III, §335A, Sept. 30, 1994, 108 Stat. 2495; Pub. L. 104–50, title III, §333(a), Nov. 15, 1995, 109 Stat. 457; Pub. L. 104–287, §6(c), Oct. 11, 1996, 110 Stat. 3398; Pub. L. 105–102, §3(a), Nov. 20, 1997, 111 Stat. 2214.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5302(a)(1)	49 App.:1608(c)(1).	July 9, 1964, Pub. L. 88–365, §12(c)(1), 78 Stat. 306; Aug. 10, 1965, Pub. L. 89–117, §1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20, 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, §702, 82 Stat. 535; restated Nov. 6, 1978, Pub. L. 95–599, §308(b), 92 Stat. 2746; Jan. 6, 1983, Pub. L. 97–424, §309(a), 96 Stat. 2151; Apr. 2, 1987, Pub. L. 100–17, §309(a), 101 Stat. 227.
	49 App.:1608(c)(7), (8).	July 9, 1964, Pub. L. 88–365, §12(c)(3)–(9), 78 Stat. 306; Aug. 10, 1965, Pub. L. 89–117, §1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20, 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, §702, 82 Stat. 535; restated Nov. 6, 1978, Pub. L. 95–599, §308(b), 92 Stat. 2746; Dec. 18, 1991, Pub. L. 102–240, §3016, 105 Stat. 2108.
5302(a)(2)	49 App.:1608(c)(3).	
5302(a)(3)	49 App.:1608(c)(13).	July 9, 1965, Pub. L. 88–365, 78 Stat. 302, §12(c)(12), (13); added Apr. 2, 1987, Pub. L. 100–17, §318(b)(3), 101 Stat. 234.
5302(a)(4)	49 App.:1608(c)(2).	July 9, 1964, Pub. L. 88–365, §12(c)(2), 78 Stat. 306; Aug. 10, 1965, Pub. L. 89–117, §1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20, 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, §702, 82 Stat. 535; restated Nov. 6, 1978, Pub. L. 95–599, §308(b), 92 Stat. 2746; Jan. 6, 1983, Pub. L. 97–424, §309(b), 96 Stat. 2151.
5302(a)(5)	49 App.:1608(c)(4) (1st sentence).	
5302(a)(6)	49 App.:1608(c)(5).	
5302(a)(7)	49 App.:1608(c)(6).	
5302(a)(8)	(no source).	
5302(a)(9)	49 App.:1608(h)(2).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(h)(2); added Apr. 2, 1987, Pub. L. 100–17, §317(a), 101 Stat. 233; Dec. 18, 1991, Pub. L. 102–240, §6021(a), 105 Stat. 2184.
	49 App.:1608 (note).	Apr. 2, 1988, Pub. L. 100–17, §317(b)(4), 101 Stat. 233.
5302(a)(10) ..	49 App.:1608(c)(12).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5302(a)(11) ..	49 App.:1608(c)(9).	
5302(a)(12) ..	49 App.:1608(c)(10).	July 9, 1964, Pub. L. 88–365, §12(c)(10), (11), 78 Stat. 306; Aug. 10, 1965, Pub. L. 89–117, §1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20, 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, §702, 82 Stat. 535; restated Nov. 6, 1978, Pub. L. 95–599, §308(b), 92 Stat. 2746; Apr. 2, 1987, Pub. L. 100–17, §318(b)(1), (2), 101 Stat. 234.
5302(a)(13) ..	49 App.:1608(c)(11).	
5302(b)	49 App.:1608(c)(4) (last sentence).	

In this chapter, the words ''local governmental authority'' are substituted for ''local public body'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a), before clause (1), the text of 49 App.:1608(c)(7) is omitted as surplus. The text of 49 App.:1608(c)(8) is omitted because the complete title of the Secretary of Transportation is used the first time the term appears in a section. In clause (1), before subclause (A), the words ''capital project'' are substituted for ''construction'' for clarity. In subclause (A), the words ''actual'', ''all'', and ''reconstruction'' are omitted as surplus. In subclause (D), the words ''(whether or not such overhaul increases the useful life of the rolling stock)'' are omitted as surplus. In clause (2), the words ''for each of the jurisdictions included in the definition of 'State' '' are omitted as surplus. In clauses (3) and (10), the word ''regulation'' is substituted for ''rule'' for consistency in the revised title and with other titles of the Code and because the terms are synonymous. In clause (3)(B)(iii), the words ''of persons'' are omitted as surplus. In clauses (4) and (5), the word ''mass'' is substituted for ''public'' because of the restatement. In clause (4)(A), the words ''including, but not limited to, fixed rail, automated guideway transit, and exclusive facilities for buses'' are omitted as surplus. In clause (6)(A), the words ''municipalities and other'' are omitted as surplus. In clause (6)(B), the word ''authority'' is substituted for ''public agencies and instrumentalities'' for consistency in the revised title and with other titles of the Code. The word ''municipalities'' is omitted as surplus. In clause (7), the words ''bus, or rail, or other'', ''either publicly or privately owned'', and ''on a . . . basis'' are omitted as surplus. Clause (8) is added for clarity because the term ''net project cost'' has the same meaning throughout this chapter. In clause (11), the words ''the Commonwealths of'' are omitted as surplus. In clause (12), the word ''individuals'' is substituted for ''commuters or others'' to eliminate unnecessary words. In clause (13)(A), the words ''in the case of any such area'' and ''entire'' are omitted as surplus. The words ''Secretary of Commerce'' are substituted for ''Bureau of the Census'' because of 15:1511(e). In clause (13)(B), the words ''so designated by the Bureau of Census'', ''which shall be'', ''responsible'', and ''in cooperation with each other'' are omitted as surplus.

Subsection (b) applies to section 5307(d)(1)(D) of the revised title because of 49 App.:1607a(e)(1), restated as section 5307(n)(2) of the revised title.

AMENDMENTS

1997—Subsec. (a)(1)(B), (C). Pub. L. 105–102 made technical correction to directory language of Pub. L. 104–50, §333(a). See 1995 Amendment notes below.

1996—Subsec. (a)(1). Pub. L. 104–287 made technical correction to directory language of Pub. L. 103–331, §335A. See 1994 Amendment note below.

1995—Subsec. (a)(1)(B). Pub. L. 104–50, §333(a)(1), as amended by Pub. L. 105–102, §3(a)(1), struck out ''that extends the economic life of a bus for at least 5 years'' after ''rehabilitating a bus''.

Subsec. (a)(1)(C). Pub. L. 104–50, §333(a)(2), as amended by Pub. L. 105–102, §3(a)(2), struck out ''that extends the economic life of a bus for at least 8 years'' after ''remanufacturing a bus''.

1994—Subsec. (a)(1). Pub. L. 103–331, §335A, as amended by Pub. L. 104–287, inserted ''payments for the capital portions of rail trackage rights agreements,'' after ''rights of way),''.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, §3(a), Nov. 20, 1997, 111 Stat. 2214, provided that the amendment made by section 3(a) is effective Nov. 15, 1995.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 6(c) of Pub. L. 104–287 provided that the amendment made by that section is effective Sept. 30, 1994.

EFFECTIVE DATE OF 1995 AMENDMENT

Section 333(b) of Pub. L. 104–50 provided that: ''The amendments made by this section [amending this section] shall not take effect before March 31, 1996.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5307, 5336, 10501 of this title.

§ 5303. Metropolitan planning

(a) DEVELOPMENT REQUIREMENTS.—To carry out section 5301(a) of this title, metropolitan planning organizations designated under subsection (c) of this section, in cooperation with States, shall develop transportation plans and programs for State urbanized areas. The plans and programs for each area shall provide for developing transportation facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State, metropolitan area, and United States. The development process shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems.

(b) PLAN AND PROGRAM FACTORS.—In developing plans and programs under this section and sections 5304–5306 of this title, each metropolitan planning organization at least shall consider the following factors:

(1) preserving existing transportation facilities and, where practical, ways to meet transportation needs by using existing transportation facilities more efficiently.

(2) the consistency of transportation planning with United States Government, State, and local energy conservation programs, goals, and objectives.

(3) the need to relieve congestion and prevent congestion from occurring.

(4) the likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with short- and long-term land use and development plans.

(5) programming expenditures on transportation enhancement activities, as required under section 133 of title 23.

(6) the effects of all transportation projects to be undertaken in the metropolitan area, without regard to whether the projects are publicly financed.

(7) international border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations.

(8) the need for connecting roads in the metropolitan area with roads outside the area.

(9) the transportation needs identified by using the management systems required by section 303 of title 23.

(10) preserving rights of way for constructing future transportation projects, including identifying—

(A) unused rights of way that may be needed for future transportation corridors; and

(B) corridors where action is needed most to prevent destruction or loss.

(11) ways to enhance the efficient movement of freight.

(12) using life-cycle costs in designing and engineering bridges, tunnels, and pavement.

(13) the overall social, economic, energy, and environmental effects of transportation decisions.

(14) ways to expand and enhance mass transportation services and to increase usage of those services.

(15) capital investments that will result in increased security in mass transportation systems.

(c) DESIGNATING METROPOLITAN PLANNING ORGANIZATIONS.—(1) To carry out the planning process required by this section and sections 5304–5306 of this title, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000—

(A) by agreement of the chief executive officer of a State and units of general local government representing at least 75 percent of the affected population (including the central city as defined by the Secretary of Commerce); or

(B) under procedures established by State or local law.

(2) In a metropolitan area designated as a transportation management area, the designated metropolitan planning organization, if redesignated after December 18, 1991, shall include local elected officials, officials of authorities that administer or operate major modes of transportation in the metropolitan area (including all transportation authorities included in the organization on June 1, 1991), and appropriate State officials.

(3) More than one metropolitan planning organization may be designated in an urbanized area (as defined by the Secretary of Commerce) only if the chief executive officer decides that the size and complexity of the urbanized area make designation of more than one organization appropriate.

(4) A designation is effective until—

(A) the organization is redesignated under paragraph (5) of this subsection; or

(B) revoked—

(i) by agreement of the chief executive officer and units of general local government representing at least 75 percent of the affected population; or

(ii) as otherwise provided by State or local procedures.

(5)(A) The chief executive officer and units of general local government representing at least 75 percent of the affected population (including the central city as defined by the Secretary of Commerce) may redesignate by agreement a metropolitan planning organization when appropriate to carry out this section and sections 5304–5306 of this title.

(B) A metropolitan planning organization shall be redesignated on request of one or more units of general local government representing at least 25 percent of the affected population (including the central city as defined by the Secretary of Commerce) in an urbanized area with a population of more than 5,000,000, but less than 10,000,000 or that is an extreme nonattainment area for ozone or carbon monoxide (as defined in the Clean Air Act (42 U.S.C. 7401 et seq.)).

(C) A metropolitan planning organization shall be redesignated using procedures established to carry out this paragraph.

(6) This subsection does not affect the authority, under State law in effect on December 18, 1991, of a public authority with multimodal transportation responsibilities—

(A) to develop plans and programs for a metropolitan planning organization to adopt; and

(B) to develop long-range capital plans, coordinate mass transportation services and projects, and carry out other activities under State law.

(d) METROPOLITAN AREA BOUNDARIES.—To carry out this section, the metropolitan planning organization and the chief executive officer shall decide by agreement on the boundaries of a metropolitan area. The area shall cover at least the existing urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period and may include the Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area, as defined by the Secretary of Commerce. An area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) shall include at least the boundaries of the nonattainment area, except as the chief executive officer and metropolitan planning organization otherwise agree.

(e) COORDINATION.—(1) The Secretary of Transportation shall establish requirements the Secretary considers appropriate to encourage chief executive officers and metropolitan planning organizations with responsibility for part of a multi-State metropolitan area to provide coordinated transportation planning for the entire area.

(2) Congress consents to at least 2 States making an agreement, not in conflict with a law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreement effective.

(3) If more than one metropolitan planning organization has authority in a metropolitan area

or an area designated a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each organization shall consult with the other organizations designated for the area and the State to coordinate plans and projects required by this section and sections 5304–5306 of this title.

(f) DEVELOPING LONG-RANGE PLANS.—(1) Each metropolitan planning organization shall prepare and update periodically, according to a schedule the Secretary of Transportation decides is appropriate, a long-range plan for its metropolitan area under the requirements of this section. The plan shall be in the form the Secretary considers appropriate and at least shall—

(A) identify transportation facilities (including major roadways, mass transportation, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, emphasizing transportation facilities that serve important United States and regional transportation functions;

(B) include a financial plan that—

(i) demonstrates how the long-range plan can be carried out;

(ii) indicates resources from public and private sources reasonably expected to be made available to carry out the plan; and

(iii) recommends innovative financing techniques, including value capture, tolls, and congestion pricing, to finance needed projects and programs;

(C) assess capital investment and other measures necessary—

(i) to ensure the preservation of the existing metropolitan transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, and operations, maintenance, modernization, and rehabilitation of existing and future mass transportation facilities; and

(ii) to use existing transportation facilities most efficiently to relieve vehicular congestion and maximize the mobility of individuals and goods; and

(D) indicate appropriate proposed transportation enhancement activities.

(2) When formulating a long-range plan, the metropolitan planning organization shall consider the factors described in subsection (b) of this section as they are related to a 20-year forecast period.

(3) In a metropolitan area that is in a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of the long-range plan with the development of the transportation control measures of the State Implementation Plan required by the Act.

(4) Before approving a long-range plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of mass transportation authority employees, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the plan in a way the Secretary of Transportation considers appropriate.

(5) A long-range plan shall be—

(A) made readily available for public review; and

(B) submitted for information purposes to the chief executive officer of the State at the time and in the way the Secretary of Transportation establishes.

(g) GRANTS.—Under criteria the Secretary of Transportation establishes, the Secretary may make contracts for, and grants to, States, local governmental authorities, and authorities of the States and governmental authorities, or may make agreements with other departments, agencies, and instrumentalities of the Government, to plan, engineer, design, and evaluate a mass transportation project and for other technical studies, including—

(1) studies related to management, operations, capital requirements, and economic feasibility;

(2) evaluating previously financed projects; and

(3) other similar and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment.

(h) BALANCED AND COMPREHENSIVE PLANNING.—(1) To the extent practicable, the Secretary of Transportation shall ensure that amounts made available under section 5338(g)(1) of this title to carry out this section and sections 5304–5306 of this title are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

(2)(A) The Secretary of Transportation shall apportion 80 percent of the amount made available under section 5338(g)(1) of this title to States in a ratio equal to the population in urbanized areas in each State divided by the total population in urbanized areas in all States, as shown by the latest available decennial census. A State may not receive less than .5 percent of the amount apportioned under this subparagraph.

(B) Amounts apportioned to a State under subparagraph (A) of this paragraph shall be allocated to metropolitan planning organizations in the State designated under this section under a formula—

(i) the State develops in cooperation with the metropolitan planning organizations;

(ii) the Secretary of Transportation approves; and

(iii) that considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section.

(C) A State shall make amounts available promptly to eligible metropolitan planning organizations according to procedures the Secretary of Transportation approves.

(3)(A) The Secretary of Transportation shall apportion 20 percent of the amount made available under section 5338(g)(1) of this title to States to supplement allocations made under paragraph (2)(B) of this subsection for metropolitan planning organizations.

(B) Amounts under this paragraph shall be allocated under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities under this section and sections 5304–5306 of this title in those areas.

(4) To the maximum extent practicable, the Secretary of Transportation shall ensure that no metropolitan planning organization is allocated less than the amount it received by administrative formula under this section in the fiscal year that ended September 30, 1991. To carry out this subsection, the Secretary may make a proportionate reduction in other amounts made available to carry out section 5338(g) of this title.

(5) Amounts available for an activity under this subsection are for 80 percent of the cost of the activity unless the Secretary of Transportation decides it is in the interests of the Government not to require a State or local match.

(6) An amount apportioned under this subsection—

(A) remains available for 3 years after the fiscal year in which the amount is apportioned, and

(B) that is unobligated at the end of the 3-year period shall be reapportioned among the States for the next fiscal year.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 788; Pub. L. 104–287, §5(10), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105–102, §2(4), Nov. 20, 1997, 111 Stat. 2204.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5303(a)	49 App.:1607(a) (2d–last sentences).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(a) (2d–last sentences)–(g), (n); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2098, 2104.
5303(b)	49 App.:1607(f).	
5303(c)(1)	49 App.:1607(b)(1).	
5303(c)(2)	49 App.:1607(b)(2).	
5303(c)(3)	49 App.:1607(b)(6).	
5303(c)(4)	49 App.:1607(b)(4).	
5303(c)(5)	49 App.:1607(b)(5).	
5303(c)(6)	49 App.:1607(b)(3).	
5303(d)	49 App.:1607(c).	
5303(e)	49 App.:1607(d), (e).	
5303(f)	49 App.:1607(g).	
5303(g)	49 App.:1607(n).	
5303(h)	49 App.:1607(p).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(p); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2105; Oct. 6, 1992, Pub. L. 102–388, §502(h), 106 Stat. 1566.

In this section, the word ''together'' is omitted as surplus. The words ''Secretary of Commerce'' are substituted for ''Bureau of the Census'' because of 15:1511(e).

In subsection (b)(2), the word ''applicable'' is omitted as surplus.

In subsection (b)(3), the words ''where it does not yet occur'' are omitted as surplus.

In subsection (b)(4), the words ''the provisions of all applicable'' are omitted as surplus.

In subsection (c)(4), before clause (A), the words ''whether made under this section or other provisions of law'' are omitted as surplus.

In subsection (d), the word ''entire'' is omitted as surplus.

In subsection (e)(2), the words ''or compacts'' and ''joint or otherwise'' are omitted as surplus.

In subsection (f)(3), the word ''area'' is added for clarity and consistency with 42:7501(2).

In subsection (f)(5)(A), the words ''published or otherwise'' are omitted as surplus.

In subsection (g), before clause (1), the words ''local governmental authorities'' are substituted for ''local public bodies'', and the words ''departments, agencies, and instrumentalities of the Government'' are substituted for ''Federal departments and agencies'', for consistency in the revised title and with other titles of the United States Code.

In subsection (h)(6)(A), the words ''for obligation'', ''a period of'', and ''the close of'' are omitted as surplus.

PUB. L. 104–287

This amends 49:5303(f)(2) and (h)(4) to correct erroneous cross-references.

PUB. L. 105–102, §2(4)(A)

This amends 49:5303(c)(1) to correct an erroneous cross-reference.

PUB. L. 105–102, §2(4)(B)

This amends 49:5303(c)(4)(A) to correct an erroneous cross-reference.

PUB. L. 105–102, §2(4)(C)

This amends 49:5303(c)(5)(A) to correct an erroneous cross-reference.

REFERENCES IN TEXT

The Clean Air Act, referred to in subsecs. (c)(5)(B), (d), (e)(3), and (f)(3), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

AMENDMENTS

1997—Subsec. (c)(1). Pub. L. 105–102, §2(4)(A), inserted ''and sections 5304–5306 of this title'' after ''this section''.

Subsec. (c)(4)(A). Pub. L. 105–102, §2(4)(B), substituted ''paragraph (5)'' for ''paragraph (3)''.

Subsec. (c)(5)(A). Pub. L. 105–102, §2(4)(C), inserted ''and sections 5304–5306 of this title'' after ''this section''.

1996—Subsec. (f)(2). Pub. L. 104–287, §5(10)(A), substituted ''subsection (b)'' for ''subsection (e)''.

Subsec. (h)(4). Pub. L. 104–287, §5(10)(B), substituted ''section 5338(g)'' for ''5338(g)(1)''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 8(1) of Pub. L. 104–287, as amended by Pub. L. 105–102, §3(d)(2)(A), Nov. 20, 1997, 111 Stat. 2215, provided that: ''The amendments made by sections 3 and 5(10)–(17), (19), (20), (52), (53), (55), (61), (62), (65), (70), (77)–(79), and (91)–(93) of this Act [amending this section, sections 5307, 5309, 5315, 5317, 5323, 5325, 5327, 5336, 5338, 20301, 21301, 22106, 32702, 32705, 40109, 41109, 46301, 46306, 46316, 60114, 70102, and 70112 of this title, and section 1445 of Title 28, Judiciary and Judicial Procedure] shall take effect on July 5, 1994.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5304, 5305, 5306, 5307, 5309, 5313, 5314, 5323, 5338 of this title; title 23 section 135.

§5304. Transportation improvement program

(a) DEVELOPMENT AND UPDATE.—In cooperation with the State and affected mass transportation

operators, a metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the area. In developing the program, the organization shall provide citizens, affected public agencies, representatives of transportation authority employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program. The program shall be updated at least once every 2 years and shall be approved by the organization and the chief executive officer of the State.

(b) CONTENTS.—A transportation improvement program for a metropolitan area shall include—

(1) a priority list of projects and parts of projects to be carried out in each 3-year period after the program is adopted; and

(2) a financial plan that—

(A) demonstrates how the program can be carried out;

(B) indicates resources from public and private sources that reasonably are expected to be made available to carry out the plan; and

(C) recommends innovative financing techniques, including value capture, tolls, and congestion pricing, to finance needed projects.

(c) PROJECT SELECTION.—(1) Except as provided in section 5305(d)(1) of this title, the State, in cooperation with the metropolitan planning organization, shall select projects in a metropolitan area that involve United States Government participation. Selection shall comply with the transportation improvement program for the area.

(2) A transportation improvement program for a metropolitan area shall include—

(A) projects within the area that are proposed for financing under this chapter and title 23 and that are consistent with the long-range plan developed under section 5303(f) of this title; and

(B) a project or an identified phase of a project only if full financing reasonably can be anticipated to be available for the project in the period estimated for completion.

(d) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice and an opportunity to comment on the proposed program.

(e) REGULATORY PROCEEDING.—Not later than June 18, 1992, the Secretary of Transportation shall begin a regulatory proceeding to conform review requirements for mass transportation projects under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to comparable requirements under that Act applicable to highway projects. This section and sections 5303, 5305, and 5306 of this title do not affect the applicability of the Act to mass transportation or highway projects. A mass transportation project that has an approved draft Environmental Impact Statement is exempt from complying with requirements under the Act applicable to highway projects.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 793.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5304(a)	49 App.:1607(h)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 8(h); added Nov. 6, 1978, Pub. L. 95–599, § 305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, § 310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, § 3012, 105 Stat. 2102; Oct. 6, 1992, Pub. L. 102–388, §§ 501, 502(e), 106 Stat. 1566.
5304(b)	49 App.:1607(h)(2).	
5304(c)	49 App.:1607(h)(3), (5).	
5304(d)	49 App.:1607(h)(6).	
5304(e)	49 App.:1607(h)(4).	

In subsection (b)(1), the word ''initial'' is omitted as surplus.

In subsection (b)(2)(C), the words ''and programs'' are omitted as surplus.

In subsection (c)(1), the word ''otherwise'' is omitted as surplus.

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (e), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5303, 5305, 5306, 5307, 5309, 5313, 5314, 5323, 5338 of this title; title 23 section 135.

§ 5305. Transportation management areas

(a) DESIGNATION.—The Secretary of Transportation shall designate as a transportation management area—

(1) each urbanized area with a population of more than 200,000; and

(2) any other area, including the Lake Tahoe Basin as defined in the Act of December 19, 1980 (Public Law 96–551, 94 Stat. 3233), when requested by the chief executive officer and the metropolitan organization designated for the area or the affected local officials.

(b) TRANSPORTATION PLANS AND PROGRAMS.—Transportation plans and programs in a transportation management area shall be based on a continuing and comprehensive transportation planning process the metropolitan planning organization carries out in cooperation with the State and mass transportation operators.

(c) CONGESTION MANAGEMENT SYSTEM.—The transportation planning process under sections 5303, 5304, and 5306 of this title in a transportation management area shall include a congestion management system providing for effective management, through travel demand reduction and operational management strategies, of new and existing transportation facilities eligible for financing under this chapter and title 23. The Secretary shall establish a phase-in schedule to comply with sections 5303, 5304, and 5306.

(d) PROJECT SELECTION.—(1)(A) In consultation with the State, the metropolitan planning orga-

nization designated for a transportation management area shall select the projects to be carried out in the area with United States Government participation under this chapter or title 23, except projects of the National Highway System or under the Bridge and Interstate Maintenance programs.

(B) In cooperation with the metropolitan planning organization designated for a transportation management area, the State shall select the projects to be carried out in the area of the National Highway System or under the Bridge and Interstate Maintenance programs.

(2)(A) A selection under this subsection must comply with the transportation improvement program for the area.

(B) A selection under paragraph (1)(A) of this subsection must comply with priorities established in the program.

(e) CERTIFICATION.—(1) At least once every 3 years, the Secretary shall ensure and certify that each metropolitan planning organization in each transportation management area is carrying out its responsibilities under applicable laws of the United States. The Secretary may make the certification only if the organization is complying with section 134 of title 23 and other applicable requirements of laws of the United States and the organization and chief executive officer have approved a transportation improvement program for the area.

(2) If the Secretary does not certify before October 1, 1993, that a metropolitan planning organization is carrying out its responsibilities, the Secretary may withhold any part of the apportionment under section 104(b)(3) of title 23 attributed to the relevant metropolitan area under section 133(d)(3) of title 23 and capital amounts apportioned under section 5336 of this title. If an organization remains uncertified for more than 2 consecutive years after September 30, 1994, 20 percent of that apportionment and capital amounts shall be withheld. The withheld apportionments shall be restored when the Secretary certifies the organization.

(3) The Secretary may not withhold certification based on the policies and criteria a metropolitan planning organization or mass transportation grant recipient establishes under section 5306(a) of this title for deciding the feasibility of private enterprise participation.

(f) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—Government amounts may be made available for a mass transportation project resulting in a significant increase in carrying capacity for single occupant vehicles in a transportation management area classified as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) only if the project is part of an approved congestion management system.

(g) AREAS NOT DESIGNATED TRANSPORTATION MANAGEMENT AREAS.—(1) The Secretary may provide for the development of abbreviated metropolitan transportation plans and programs the Secretary decides are appropriate to carry out this section and sections 5303, 5304, and 5306 of this title for metropolitan areas not designated transportation management areas under this section. The Secretary shall consider the complexity of transportation problems in those areas, including transportation-related air quality problems.

(2) The Secretary may not provide an abbreviated plan or program for a metropolitan area in a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 794.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5305(a)–(e) ..	49 App.:1607(i).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 8(i); added Nov. 6, 1978, Pub. L. 95–599, § 305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, § 310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, § 3012, 105 Stat. 2103; Oct. 6, 1992, Pub. L. 102–388, § 502(f), 106 Stat. 1566.
5305(f)	49 App.:1607(*l*).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 8(j), (*l*); added Nov. 6, 1978, Pub. L. 95–599, § 305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, § 310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, § 3012, 105 Stat. 2104.
5305(g)	49 App.:1607(j).	

In subsection (c), the words ''title 23'' are substituted for ''this title'' for consistency in this chapter and to reflect the apparent intent of Congress. The word ''appropriate'' is omitted as surplus.

In subsection (e)(2), the words ''under the formula program'' are omitted as surplus.

In subsections (f) and (g), the word ''area'' is added for clarity and consistency with 42:7501(2).

In subsection (f), the words ''Notwithstanding any other provisions of this chapter or title 23, United States Code'' are omitted as surplus.

REFERENCES IN TEXT

Act of December 19, 1980, referred to in subsec. (a)(2), is Pub. L. 96–551, Dec. 19, 1980, 94 Stat. 3233, which is not classified to the Code.

The Clean Air Act, referred to in subsecs. (f) and (g)(2), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5303, 5304, 5306, 5307, 5309, 5313, 5314, 5323, 5338 of this title; title 23 section 135.

§ 5306. Private enterprise participation in metropolitan planning and transportation improvement programs and relationship to other limitations

(a) PRIVATE ENTERPRISE PARTICIPATION.—A plan or program required by section 5303, 5304, or 5305 of this title shall encourage to the maximum extent feasible the participation of private enterprise. If equipment or a facility already being used in an urban area is to be acquired under this chapter, the program shall provide that it be improved so that it will better serve the transportation needs of the area.

(b) RELATIONSHIP TO OTHER LIMITATIONS.—Sections 5303–5305 of this title do not authorize—

(1) a metropolitan planning organization to impose a legal requirement on a transpor-

tation facility, provider, or project not eligible under this chapter or title 23; and

(2) intervention in the management of a transportation authority.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 795.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5306(a)	49 App.:1607(*o*).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 8(*o*); added Nov. 6, 1978, Pub. L. 95–599, § 305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, § 310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, § 3012, 105 Stat. 2105.
5306(b)	49 App.:1607(m).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 8(m); added Nov. 6, 1978, Pub. L. 95–599, § 305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, § 310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, § 3012, 105 Stat. 2104; Oct. 6, 1992, Pub. L. 102–388, § 502(g), 106 Stat. 1566.

In subsection (a), the words ''(through modernization, extension, addition, or otherwise)'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5303, 5304, 5305, 5307, 5309, 5313, 5314, 5323, 5338 of this title; title 23 section 134.

§ 5307. Block grants

(a) DEFINITIONS.—In this section—

(1) ''associated capital maintenance items'' means equipment, tires, tubes, and material, each costing at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used.

(2) ''designated recipient'' means—

(A) a person designated, consistent with the planning process under sections 5303–5306 of this title, by the chief executive officer of a State, responsible local officials, and publicly owned operators of mass transportation to receive and apportion amounts under section 5336 of this title that are attributable to transportation management areas established under section 5305(a) of this title; or

(B) a State or regional authority if the authority is responsible under the laws of a State for a capital project and for financing and directly providing mass transportation.

(b) GENERAL AUTHORITY.—(1) The Secretary of Transportation may make grants under this section for capital projects and to finance the planning, improvement, and operating costs of equipment, facilities, and associated capital maintenance items for use in mass transportation, including the renovation and improvement of historic transportation facilities with related private investment.

(2) In a transportation management area designated under section 5305(a) of this title, amounts that cannot be used to pay operating expenses under this section also are available for a highway project if—

(A) that use is approved by the metropolitan planning organization under section 5303 of this title after appropriate notice and an opportunity for comment and appeal is provided to affected mass transportation providers; and

(B) the Secretary decides the amounts are not needed for investment required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(3) A grant for a capital project under this section also is available to finance the leasing of equipment and facilities for use in mass transportation, subject to regulations the Secretary prescribes limiting the grant to leasing arrangements that are more cost effective than acquisition or construction.

(4) A project for the reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used, is a capital project for an associated capital maintenance item under this section.

(5) Amounts under this section are available for a highway project under title 23 only if amounts used for the State or local share of the project are eligible to finance either a highway or mass transportation project.

(c) PUBLIC PARTICIPATION REQUIREMENTS.—Each recipient of a grant shall—

(1) make available to the public information on amounts available to the recipient under this section and the program of projects the recipient proposes to undertake;

(2) develop, in consultation with interested parties, including private transportation providers, a proposed program of projects for activities to be financed;

(3) publish a proposed program of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the recipient;

(4) provide an opportunity for a public hearing in which to obtain the views of citizens on the proposed program of projects;

(5) ensure that the proposed program of projects provides for the coordination of mass transportation services assisted under section 5336 of this title with transportation services assisted from other United States Government sources;

(6) consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; and

(7) make the final program of projects available to the public.

(d) GRANT RECIPIENT REQUIREMENTS.—A recipient may receive a grant in a fiscal year only if—

(1) the recipient, within the time the Secretary prescribes, submits a final program of projects prepared under subsection (c) of this section and a certification for that fiscal year that the recipient (including a person receiving amounts from a chief executive officer of a State under this section)—

(A) has or will have the legal, financial, and technical capacity to carry out the program;

(B) has or will have satisfactory continuing control over the use of equipment and facilities;

(C) will maintain equipment and facilities;

(D) will ensure that elderly and handicapped individuals, or an individual presenting a medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. 401 et seq., 1395 et seq.), will be charged during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section not more than 50 percent of the peak hour fare;

(E) in carrying out a procurement under this section—

(i) will use competitive procurement (as defined or approved by the Secretary);

(ii) will not use a procurement that uses exclusionary or discriminatory specifications; and

(iii) will comply with applicable Buy America laws in carrying out a procurement;

(F) has complied with subsection (c) of this section;

(G) has available and will provide the required amounts as provided by subsection (e) of this section;

(H) will comply with sections 5301(a) and (d), 5303–5306, and 5310(a)–(d) of this title;

(I) has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation; and

(J)(i) will expend for each fiscal year for mass transportation security projects, including increased lighting in or adjacent to a mass transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned mass transportation system, at least one percent of the amount the recipient receives for each fiscal year under section 5336 of this title; or

(ii) has decided that the expenditure for security projects is not necessary; and

(2) the Secretary accepts the certification.

(e) GOVERNMENT'S SHARE OF COSTS.—A grant of the Government for a capital project (including associated capital maintenance items) under this section is for 80 percent of the net project cost of the project. A recipient may provide additional local matching amounts. A grant for operating expenses may not be more than 50 percent of the net project cost of the project. The remainder of the net project cost shall be provided in cash from sources other than amounts of the Government or revenues from providing mass transportation (excluding revenues derived from the sale of advertising and concessions that are more than the amount of those revenues in the fiscal year that ended September 30, 1985). Transit system amounts that make up the remainder shall be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(f) STATEWIDE OPERATING ASSISTANCE.—(1) A State authority that is a designated recipient and providing mass transportation in at least 2 urbanized areas may apply for operating assistance in an amount not more than the amount for all urbanized areas in which it provides transportation.

(2) When approving an application under paragraph (1) of this subsection, the Secretary may not reduce the amount of operating assistance approved for another State or a local transportation authority within the affected urbanized areas.

(g) UNDERTAKING PROJECTS IN ADVANCE.—(1) When a recipient obligates all amounts apportioned to it under section 5336 of this title and then carries out a part of a project described in this section (except a project for operating expenses) without amounts of the Government and according to all applicable procedures and requirements (except to the extent the procedures and requirements limit a State to carrying out a project with amounts of the Government previously apportioned to it), the Secretary may pay to the recipient the Government's share of the cost of carrying out that part when additional amounts are apportioned to the recipient under section 5336 if—

(A) the recipient applies for the payment;

(B) the Secretary approves the payment; and

(C) before carrying out that part, the Secretary approves the plans and specifications for the part in the same way as for other projects under this section.

(2) The Secretary may approve an application under paragraph (1) of this subsection only if an authorization for this section is in effect for the fiscal year to which the application applies. The Secretary may not approve an application if the payment will be more than—

(A) the recipient's expected apportionment under section 5336 of this title if the total amount authorized to be appropriated for the fiscal year to carry out this section is appropriated; less

(B) the maximum amount of the apportionment that may be made available for projects for operating expenses under this section.

(3) The cost of carrying out that part of a project includes the amount of interest earned and payable on bonds issued by the recipient to the extent proceeds of the bonds are expended in carrying out the part. However, the amount of interest allowed under this paragraph may not be more than the amount by which the estimated cost of carrying out the part (if it would be carried out at the time the part is converted to a regularly financed project) exceeds the actual cost (except interest) of carrying out the part.

(4) The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (3) of this subsection.

(h) STREAMLINED ADMINISTRATIVE PROCEDURES.—The Secretary shall prescribe streamlined administrative procedures for complying with the certification requirement under sub-

section (d)(1)(B) and (C) of this section for track and signal equipment used in existing operations.

(i) REVIEWS, AUDITS, AND EVALUATIONS.—(1)(A) At least annually, the Secretary shall carry out, or require a recipient to have carried out independently, reviews and audits the Secretary considers appropriate to establish whether the recipient has carried out—

(i) the activities proposed under subsection (d) of this section in a timely and effective way and can continue to do so; and

(ii) those activities and its certifications and has used amounts of the Government in the way required by law.

(B) An audit of the use of amounts of the Government shall comply with the auditing procedures of the Comptroller General.

(2) At least once every 3 years, the Secretary shall review and evaluate completely the performance of a recipient in carrying out the recipient's program, specifically referring to compliance with statutory and administrative requirements and the extent to which actual program activities are consistent with the activities proposed under subsection (d) of this section and the planning process required under sections 5303–5306 of this title.

(3) The Secretary may take appropriate action consistent with a review, audit, and evaluation under this subsection, including making an appropriate adjustment in the amount of a grant or withdrawing the grant.

(j) REPORTS.—A recipient (including a person receiving amounts from a chief executive officer of a State under this section) shall submit annually to the Secretary a report on the revenues the recipient derives from the sale of advertising and concessions.

(k) SUBMISSION OF CERTIFICATIONS.—A certification under subsection (d) of this section and any additional certification required by law to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of the grant application under this section. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(e)(2) of this title.

(*l*) PROCUREMENT SYSTEM APPROVAL.—A recipient may request the Secretary to approve its procurement system. The Secretary shall approve the system for use for procurements financed under section 5336 of this title if, after consulting with the Administrator for Federal Procurement Policy, the Secretary decides the system provides for competitive procurement. Approval of a system under this subsection does not relieve a recipient of the duty to certify under subsection (d)(1)(E) of this section.

(m) OPERATING FERRIES OUTSIDE URBANIZED AREAS.—A vessel used in ferryboat operations financed under section 5336 of this title that is part of a State-operated ferry system may be operated occasionally outside the urbanized area in which service is provided to accommodate periodic maintenance if existing ferry service is not reduced significantly by operating outside the area.

(n) RELATIONSHIP TO OTHER LAWS.—(1) Section 1001 of title 18 applies to a certificate or submission under this section. The Secretary may end a grant under this section and seek reimbursement, directly or by offsetting amounts available under section 5336 of this title, when a false or fraudulent statement or related act within the meaning of section 1001 is made in connection with a certification or submission.

(2) Sections 5302, 5318, 5323(a)(1), (d), and (f), 5332, and 5333 of this title apply to this section and to a grant made under this section. Except as provided in this section, no other provision of this chapter applies to this section or to a grant made under this section.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 795; Pub. L. 103–429, § 6(7), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 104–287, § 5(11), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5307(a)(1)	49 App.:1607a(j)(1) (last sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(j)(1) (last sentence); added Jan. 6, 1983, Pub. L. 97–424, § 303, 96 Stat. 2145; Apr. 2, 1987, Pub. L. 100–17, §§ 309(b)(1), (2), 327(b), 101 Stat. 227, 238.
5307(a)(2)	49 App.:1607a(m)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(h), (i), (m)(1); added Jan. 6, 1983, Pub. L. 97–424, § 303, 96 Stat. 2145, 2147; Apr. 2, 1987, Pub. L. 100–17, § 327(b), 101 Stat. 238; Oct. 6, 1992, Pub. L. 102–388, § 503(2), 106 Stat. 1567.
5307(b)(1)	49 App.:1607a(j)(1) (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(j)(1) (1st sentence); added Jan. 6, 1983, Pub. L. 97–424, § 303, 96 Stat. 2145; Apr. 2, 1987, Pub. L. 100–17, §§ 309(b)(3), 327(b), 101 Stat. 227, 238.
5307(b)(2)	49 App.:1607a(j)(1) (2d sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(j)(1) (2d sentence); added Dec. 18, 1991, Pub. L. 102–240, § 3013(h)(1), 105 Stat. 2107.
5307(b)(3)	49 App.:1607a(j)(1) (3d, 4th sentences).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(j)(1) (3d, 4th sentences); added Apr. 2, 1987, Pub. L. 100–17, § 308, 101 Stat. 226.
5307(b)(4)	49 App.:1607a(j)(2).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(j)(2); added Apr. 2, 1987, Pub. L. 100–17, § 309(b)(4), 101 Stat. 227.
5307(b)(5)	49 App.:1607a(j)(3).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(j)(3); added Dec. 18, 1991, Pub. L. 102–240, § 3013(h)(2), 105 Stat. 2107.
5307(c)	49 App.:1607a(f).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(f); added Jan. 6, 1983, Pub. L. 97–424, § 303, 96 Stat. 2144; Apr. 2, 1987, Pub. L. 100–17, § 327(b), 101 Stat. 238; Dec. 18, 1991, Pub. L. 102–240, § 3013(g), 105 Stat. 2107.
5307(d)(1)	49 App.:1607a(e)(2) (1st, last sentences).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(e)(2); added Jan. 6, 1983, Pub. L. 97–424, § 303, 96 Stat. 2143; Apr. 2, 1987, Pub. L. 100–17, §§ 312(a), 327(b), 101 Stat. 228, 238; Dec. 18, 1991, Pub. L. 102–240, § 3013(d), 105 Stat. 2106.
	49 App.:1607a(e)(3).	July 9, 1964, Pub. L. 88–365, 78 Stat. 202, § 9(e)(3); added Jan. 6, 1983, Pub. L. 97–424, § 303, 96 Stat. 2143; Apr. 2, 1987, Pub. L. 100–17, § 327(b), 101 Stat. 238; Dec. 18, 1991, Pub. L. 102–240, § 3013(f), 105 Stat. 2106.
5307(d)(2)	49 App.:1607a(e)(5).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9(e)(5); added Apr. 2, 1987, Pub. L. 100–17, § 312(f)(1), 101 Stat. 229.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5307(e)	49 App.:1607a(k)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(k)(1); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2145; Apr. 2, 1987, Pub. L. 100–17, §§309(c), (d), (f), 312(b)(1), 327(b), 101 Stat. 227, 228, 238.
5307(f)	49 App.:1607a (note).	Nov. 21, 1989, Pub. L. 101–164, §334(c), 103 Stat. 1098.
5307(g)	49 App.:1607a(p).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(p); added Apr. 2, 1987, Pub. L. 100–17, §306(b), 101 Stat. 225.
5307(h)	49 App.:1607a(e)(6).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(e)(6); added Dec. 18, 1991, Pub. L. 102–240, §3013(e), 105 Stat. 2106.
5307(i)	49 App.:1607a(g).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(g); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2144; Apr. 2, 1987, Pub. L. 100–17, §§312(f)(2), 327(b), 101 Stat. 229, 238.
5307(j)	49 App.:1607a(e)(4).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(e)(4); added Apr. 2, 1987, Pub. L. 100–17, §312(b)(2), 101 Stat. 228.
5307(k)	49 App.:1607a(e)(2) (2d, 3d sentences).	
5307(*l*)	49 App.:1607a(i).	
5307(m)	49 App.:1607a(r).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(r); added Dec. 18, 1991, Pub. L. 102–240, §3013(j), 105 Stat. 2107.
5307(n)(1)	49 App.:1607a(h).	
5307(n)(2)	49 App.:1607a(e)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(e)(1); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2143; Apr. 2, 1987, Pub. L. 100–17, §327(b), 101 Stat. 238; Dec. 18, 1991, Pub. L. 102–240, §3013(c), 105 Stat. 2106.

In subsection (a)(2)(A), the word ''required'' is omitted as surplus. The word ''apportion'' is substituted for ''dispense'' for consistency in this chapter. The word ''appropriated'' is omitted for clarity.

In subsection (a)(2)(B), the word ''authority'' is substituted for ''agency'' for consistency in the revised title and with other titles of the United States Code. The words ''by lease, contract, or otherwise'' are omitted as surplus.

In subsection (b)(1), the words ''by operation or lease or otherwise'' are omitted as surplus.

In subsection (b)(3), the words ''the Secretary prescribes'' are added for clarity. The text of 49 App.:1607a(j)(1) (4th sentence) is omitted as executed.

In subsection (b)(4), the words ''(whether by employees of the grant recipient or by contract)'' are omitted as surplus.

In subsection (c)(1), the words ''of funds'' are omitted as surplus. The words ''to the recipient'' are added for clarity. The words ''with such funds'' are omitted as surplus.

In subsection (c)(3), the words ''as appropriate'' are omitted as surplus.

In subsection (c)(5), the words ''and shall, if deemed appropriate by the recipient, modify the proposed program of projects'' are omitted as surplus.

In subsection (d)(1)(B), the words ''through operation or lease or otherwise'' are omitted as surplus.

In subsection (d)(1)(D), the words ''ensure that elderly and handicapped individuals . . . will be charged during non-peak hours for transportation using or involving a facility or equipment of a project financed under this chapter not more than 50 percent of the peak hour fare'' are substituted for 49 App.:1607a(e)(3)(C) and the words ''will give the rate required by section 1604(m) of this Appendix'' for clarity and consistency in the revised title. The word ''duly'' is omitted as surplus.

In subsection (d)(1)(J)(ii), the words ''has decided'' are added for clarity to correct an error in the source provisions being restated.

In subsection (e), the words ''at its option'', ''public'', ''the amount of any'', ''by such system'', ''Any public or private'', ''solely'', and ''available in'' are omitted as surplus.

In subsection (f), the word ''authority'' is substituted for ''agency or instrumentality'' for consistency in the revised title and with other titles of the Code.

In subsection (f)(1), the words ''is responsible under State laws for the financing, construction and operation, directly by lease, contract or otherwise, of public transportation services'' are omitted as surplus because a State that is a designated recipient has that responsibility. The words ''of UMTA funds'', ''combined total permissible'', and ''regardless of whether the amount for any particular urbanized area is exceeded'' are omitted as surplus.

In subsection (f)(2), the word ''Secretary'' is substituted for ''UMTA'' [subsequently changed to ''FTA'' because of section 3004(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2088)] because of 49:102(b) and 107(a). The words ''This provision shall take effect with the fiscal year 1990 section 9 apportionment'' are omitted as obsolete.

In subsection (g)(2), before clause (A), the word ''applies'' is substituted for ''is sought beyond the currently authorized funds for such recipient'' to eliminate unnecessary words. In clause (A), the words ''of funds'' are omitted as surplus.

In subsection (g)(3), the words ''Subject to the provisions of this paragraph'', ''the Federal share of which the Secretary is authorized to pay under this subsection'', and ''actually'' are omitted as surplus.

In subsection (i)(1)(A), before clause (i), the words ''necessary or'' are omitted as surplus. In clause (ii), the words ''required by law'' are substituted for ''which is consistent with the applicable requirements of this chapter and other applicable laws'' to eliminate unnecessary words.

In subsection (i)(1)(B), the words ''Comptroller General'' are substituted for ''General Accounting Office'' because of 31:702(b).

In subsection (i)(2), the words ''In addition to the reviews and audits described in paragraph (1)'' and ''perform a'' are omitted as surplus.

Subsection (i)(3) is substituted for 49 App.:1607a(g)(3) to eliminate unnecessary words.

In subsection (*l*), the words ''Administrator for Federal Procurement Policy'' are substituted for ''Office of Federal Procurement Policy'' because of 41:404(b). The words ''Such approval shall be binding until withdrawn'' are omitted as surplus.

In subsection (n)(1), the words ''available under section 5336 of this title'' are substituted for ''available under this subsection'' for clarity.

In subsection (n)(2), the references to sections 5302(a)(8) and 5318 are added for clarity. The source provisions of sections 5302(a)(8) and 5318, enacted by section 317 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17, 101 Stat. 233), were not intended to come under the exclusion stated in 49 App.:1607a(e)(1). The reference to 49 App.:1604(k)(3) is omitted as obsolete. The words ''condition, limitation, or other'' and ''for programs of projects'' are omitted as surplus.

PUB. L. 103–429, §6(7)(A)

This amends 49:5307(d)(1)(D) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 797).

PUB. L. 103–429, §6(7)(B)

This makes a clarifying amendment to 49:5307(d)(1)(E)(iii).

PUB. L. 104–287

This amends 49:5307(a)(2) to delete an obsolete provision.

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(2)(B), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (d)(1)(D), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles II and XVIII of such Act are classified generally to subchapters II (§ 401 et seq.) and XVIII (§ 1395 et seq.) respectively, of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–287 substituted ''title; or'' for ''title;'' in subpar. (A) and ''transportation.'' for ''transportation; or'' in subpar. (B) and struck out subpar. (C) which read as follows: ''a recipient designated under section 5(b)(1) of the Federal Transit Act not later than January 5, 1983.''

1994—Subsec. (d)(1)(D). Pub. L. 103–429, § 6(7)(A), substituted ''section'' for ''chapter''.

Subsec. (d)(1)(E)(iii). Pub. L. 103–429, § 6(7)(B), substituted ''Buy America'' for ''Buy-American''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5302, 5308, 5315, 5319, 5323, 5325, 5327, 5330, 5331, 5333, 5334, 5335, 5336, 5338, 31138 of this title; title 42 section 3035*l*.

§ 5308. Mass Transit Account block grants

(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants under this section to be used only for capital projects (including capital maintenance items).

(b) APPLICATION OF OTHER SECTIONS.—(1) Sections 5307(a)–(d), (h)–(*l*), and (n) and 5336(a)–(c), (f), (g), and (j) of this title apply to amounts made available under section 5338(a) of this title to carry out this section.

(2) Sections 5307(e) and 5336(d) of this title apply to grants under this section.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 800.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5308(a)	49 App.:1607a–2(b) (words before ''and shall be subject to'').	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9B(a), (b); added Apr. 2, 1987, Pub. L. 100–17, § 313, 101 Stat. 229.
5308(b)(1)	49 App.:1607a–2(a).	
5308(b)(2)	49 App.:1607a–2(b) (words after ''maintenance items)'').	

In subsection (a), the words ''The Secretary of Transportation may make'' are added for clarity and consistency in this chapter. The words ''the purpose of'' are omitted as surplus.

In subsection (b)(1), the cross-reference to 49 App.:1617(b) and (c) is corrected because it no longer is correct because of the restatement of 49 App.:1617 by section 3025 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2112), restated as section 5338 of the revised title.

In subsection (b)(2), the words ''the limitations contained in'' and ''applicable to such projects'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5323, 5333, 5338 of this title.

§ 5309. Discretionary grants and loans

(a) GENERAL AUTHORITY.—(1) The Secretary of Transportation may make grants and loans under this section to assist State and local governmental authorities in financing—

(A) capital projects for new fixed guideway systems, and extensions to existing fixed guideway systems, including the acquisition of real property, the initial acquisition of rolling stock for the systems, alternatives analysis related to the development of the systems, and the acquisition of rights of way, and relocation, for fixed guideway corridor development for projects in the advanced stages of alternatives analysis or preliminary engineering;

(B) capital projects, including property and improvements (except public highways other than fixed guideway facilities), needed for an efficient and coordinated mass transportation system;

(C) the capital costs of coordinating mass transportation with other transportation;

(D) the introduction of new technology, through innovative and improved products, into mass transportation;

(E) transportation projects that enhance urban economic development or incorporate private investment, including commercial and residential development, because the projects—

(i) enhance the effectiveness of a mass transportation project and are related physically or functionally to that mass transportation project; or

(ii) establish new or enhanced coordination between mass transportation and other transportation;

(F) mass transportation projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities; and

(G) the development of corridors to support fixed guideway systems, including protecting rights of way through acquisition, construction of dedicated bus and high occupancy vehicle lanes and park and ride lots, and other nonvehicular capital improvements that the Secretary may decide would result in increased mass transportation usage in the corridor.

(2) The Secretary of Transportation shall require that all grants and loans under this subsection be subject to all terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

(b) LOANS FOR REAL PROPERTY INTERESTS.—(1) The Secretary of Transportation may make

loans under this section to State and local governmental authorities to acquire interests in real property for use on urban mass transportation systems as rights of way, station sites, and related purposes, including reconstruction, renovation, the net cost of property management, and relocation payments made under section 5324(a) of this title.

(2) The Secretary of Transportation may make a loan under paragraph (1) of this subsection for an approved project only after finding that the property reasonably is expected to be required for a mass transportation system and that it will be used for that system within a reasonable time.

(3) An applicant for a loan under this subsection shall provide a copy of the application to the planning agency for the community affected by the project at the same time the application is submitted to the Secretary of Transportation. If the planning agency submits comments to the Secretary not later than 30 days after the application is submitted, or, if the agency requests more time within those 30 days, within a period the Secretary establishes, the Secretary shall consider those comments before taking final action on the application.

(4) A loan agreement under this subsection shall provide that a capital project on the property will be started not later than 10 years after the fiscal year in which the agreement is made. If an interest in property acquired under this subsection is not used for the purpose for which it was acquired, an appraisal of the current value of the property or interest shall be made when a decision is made about the use. The decision shall be made within the 10-year period. Two-thirds of the increase in value shall be paid to the Secretary of Transportation for deposit in the Treasury as miscellaneous receipts.

(5) A loan under this subsection must be repaid not later than 10 years after the date of the loan agreement or on the date a grant agreement for a capital project on the property is made, whichever is earlier. Payments made to repay the loan shall be deposited in the Treasury as miscellaneous receipts.

(c) CONSIDERATION OF DECREASED COMMUTER RAIL TRANSPORTATION.—The Secretary of Transportation shall consider the adverse effect of decreased commuter rail transportation when deciding whether to approve a grant or loan under this section to acquire a rail line and all related facilities—

(1) owned by a rail carrier subject to reorganization under title 11; and

(2) used to provide commuter rail transportation.

(d) PROJECT AS PART OF APPROVED PROGRAM OF PROJECTS.—Except as provided in subsections (b)(2) and (e) of this section, the Secretary of Transportation may approve a grant or loan for a project under this section only after finding that the project is part of the approved program of projects required under sections 5303–5306 of this title and that an applicant—

(1) has or will have the legal, financial, and technical capacity to carry out the project, satisfactory continuing control over the use of equipment or facilities, and the capability to maintain the equipment or facilities; and

(2) will maintain the equipment or facilities.

(e) CRITERIA FOR GRANTS AND LOANS FOR FIXED GUIDEWAY SYSTEMS.—(1) This subsection applies to a project—

(A) for which a letter of intent or contract for the complete amount is issued under subsection (g) of this section after April 1, 1987; or

(B) not in the preliminary engineering, final design, or construction stage on January 1, 1987.

(2) The Secretary of Transportation may approve a grant or loan under this section for a capital project for a new fixed guideway system or extension of an existing fixed guideway system only if the Secretary decides that the proposed project is—

(A) based on the results of an alternatives analysis and preliminary engineering;

(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies; and

(C) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct, maintain, and operate the system or extension.

(3) In making a decision under paragraph (2) of this subsection, the Secretary of Transportation shall—

(A) consider the direct and indirect costs of relevant alternatives;

(B) account for costs related to factors such as congestion relief, improved mobility, air pollution, noise pollution, congestion, energy consumption, and all associated ancillary and mitigation costs necessary to carry out each alternative analyzed;

(C) identify and consider mass transportation supportive existing land use policies and future patterns;

(D) consider the degree to which the project increases the mobility of the mass transportation dependent population or promotes economic development; and

(E) consider other factors the Secretary considers appropriate to carry out this chapter.

(4)(A) The Secretary of Transportation shall issue guidelines on how the Secretary will evaluate results of alternatives analysis, project justification, and the degree of local financial commitment.

(B) The project justification under paragraph (2) of this subsection shall be adjusted to reflect differences in local land, construction, and operating costs.

(C) The degree of local financial commitment is acceptable only if—

(i) the proposed project plan provides for the availability of contingency amounts the Secretary of Transportation determines to be reasonable to cover unanticipated cost overruns;

(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

(iii) local resources are available to operate the overall proposed mass transportation system (including essential feeder bus and other

services necessary to achieve the projected ridership levels) without requiring a reduction in existing mass transportation services to operate the proposed project.

(D) In assessing the stability, reliability, and availability of proposed sources of local financing, the Secretary of Transportation shall consider—

(i) existing grant commitments;

(ii) the degree to which financing sources are dedicated to the purposes proposed; and

(iii) any debt obligation that exists or is proposed by the recipient for the proposed project or other mass transportation purpose.

(5) A proposed project may advance from alternatives analysis to preliminary engineering only if the Secretary of Transportation finds that the project meets the requirements of this section and there is a reasonable chance that the project will continue to meet the requirements at the end of preliminary engineering.

(6)(A) A new fixed guideway system or extension of an existing fixed guideway system is not subject to the requirements of this subsection, and the simultaneous evaluation of similar projects in at least 2 corridors in a metropolitan area may not be limited, if—

(i) the project is located in an extreme or severe nonattainment area and is a transportation control measure (as defined by the Clean Air Act (42 U.S.C. 7401 et seq.)) required to carry out an approved State Implementation Plan; or

(ii) assistance provided under this section is less than $25,000,000 or one-third of the total cost of the project or an appropriate program of projects as decided by the Secretary of Transportation.

(B) The simultaneous evaluation of projects in at least 2 corridors in a metropolitan area may not be limited and the Secretary of Transportation shall make decisions under this subsection with expedited procedures that will promote carrying out an approved State Implementation Plan in a timely way if a project is—

(i) located in a nonattainment area that is not an extreme or severe nonattainment area;

(ii) a transportation control measure (as defined by the Clean Air Act (42 U.S.C. 7401 et seq.)); and

(iii) required to carry out the State Implementation Plan.

(C) This subsection does not apply to a part of a project (including a commuter rail transportation project on an existing right of way) financed completely with amounts for highways made available under part A of title I of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1915).

(7) A project financed under this subsection shall be carried out through a full financing grant agreement.

(f) REQUIRED PAYMENTS AND ELIGIBLE COSTS OF PROJECTS THAT ENHANCE URBAN ECONOMIC DEVELOPMENT OR INCORPORATE PRIVATE INVESTMENT.—(1) Each grant or loan under subsection (a)(5)[1] of this section shall require that a person making an agreement to occupy space in a facility pay a reasonable share of the costs of the facility through rental payments and other means.

(2) Eligible costs for a project under subsection (a)(5)[1] of this section—

(A) include property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space, and a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall; but

(B) do not include construction of a commercial revenue-producing facility or a part of a public facility not related to mass transportation.

(g) LETTERS OF INTENT, FULL FINANCING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—(1)(A) The Secretary of Transportation may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. The amount shall be sufficient to complete at least an operable segment when a letter is issued for a fixed guideway project.

(B) At least 30 days before issuing a letter under subparagraph (A) of this paragraph, the Secretary of Transportation shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of the proposed issuance of the letter.

(C) The issuance of a letter is deemed not to be an obligation under sections 1108(c) and (d), 1501, and 1502(a) of title 31 or an administrative commitment.

(D) An obligation or administrative commitment may be made only when amounts are appropriated.

(2)(A) The Secretary of Transportation may make a full financing grant agreement with an applicant. The agreement shall—

(i) establish the terms of participation by the United States Government in a project under this section;

(ii) establish the maximum amount of Government financial assistance for the project;

(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

(iv) make timely and efficient management of the project easier according to the law of the United States.

(B) An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Government. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full financing grant agreement,

[1] See References in Text note below.

except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary of Transportation, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. The amount stipulated in an agreement under this paragraph for a fixed guideway project shall be sufficient to complete at least an operable segment.

(3)(A) The Secretary of Transportation may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

(i) a full financing grant agreement for the project will be made; and

(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

(B) A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary of Transportation decides are appropriate to make efficient, long-term project management easier. A work agreement shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization. Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

(4) The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full financing grant agreements, and early systems work agreements may be not more than the greater of the amount authorized under section 5338(a) of this title to carry out this section or 50 percent of the uncommitted cash balance remaining in the Mass Transit Account of the Highway Trust Fund (including amounts received from taxes and interest earned that are more than amounts previously obligated), less an amount the Secretary of Transportation reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full financing grant agreements and early systems work agreements may be not more than a limitation specified in law.

(h) GOVERNMENT'S SHARE OF NET PROJECT COST.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary of Transportation shall estimate the net project cost. A grant for the project is for 80 percent of the net project cost, unless the grant recipient requests a lower grant percentage. The remainder shall be provided in cash from a source other than amounts of the Government. Transit system amounts that make up the remainder must be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital. The remainder for a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts of the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

(i) LOAN TERM REQUIREMENTS.—Except for a loan under subsection (b) of this section, a loan, including a renewal or extension of the loan, may be made, and a security or obligation may be bought, only if it has a maturity date of not more than 40 years. Interest on a loan may not be less than—

(1) a rate the Secretary of the Treasury establishes, considering the current average yield on outstanding marketable obligations of the Government that have remaining periods of maturity comparable to the average maturity of the loan, adjusted to the nearest .125 percent; plus

(2) an allowance the Secretary of Transportation considers adequate to cover administrative costs and probable losses.

(j) LOAN PAYMENT FORGIVENESS.—A grant agreement for a capital project may forgive repaying the loan and interest in place of a cash grant for the amount forgiven. The amount is part of the grant and part of the contribution of the Government to the cost of the project.

(k) LIMITATION ON MAKING LOANS AND GRANTS FOR PROJECTS.—The Secretary of Transportation may not make a loan under this section for a project for which a grant (except a relocation payment grant) is made under this section. However, the Secretary may make a project grant even though real property for the project has been or will be acquired through a loan under subsection (b) of this section.

(*l*) FISCAL CAPACITY CONSIDERATIONS.—If the Secretary of Transportation gives priority consideration to financing projects that include more than the non-Government share required under subsection (h) of this section, the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

(m) ALLOCATING AMOUNTS.—(1) Of the amounts available for grants and loans under this section for each of the fiscal years ending September 30, 1993–1997, and for the period of October 1, 1997, through March 31, 1998—

(A) 40 percent is available for rail fixed guideway modernization;

(B) 40 percent is available for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems; and

(C) 20 percent is available to replace, rehabilitate, and buy buses and related equipment and to construct bus-related facilities.

(2) At least 5.5 percent of the amounts available in each fiscal year under paragraph (1)(C) of this subsection is available for areas other than urbanized areas.

(3) Not later than January 20 of each year, the Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a proposal on the allocation of amounts to be made available to finance grants and loans for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems among applicants for those amounts.

(4) A person applying for, or receiving, assistance for a project described in clause (A), (B), or (C) of paragraph (1) of this subsection may receive assistance for a project described in another of those clauses.

(n) UNDERTAKING PROJECTS IN ADVANCE.—(1) The Secretary of Transportation may pay the Government's share of the net project cost to a State or local governmental authority that carries out any part of a project described in this section or a substitute transit project described in section 103(e)(4) of title 23 without the aid of amounts of the Government and according to all applicable procedures and requirements if—

(A) the State or local governmental authority applies for the payment;

(B) the Secretary approves the payment; and

(C) before carrying out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section or section 103(e)(4) of title 23.

(2) The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part. However, the amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary of Transportation, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

(3) The Secretary of Transportation shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2) of this subsection.

(*o*) USE OF DEOBLIGATED AMOUNTS.—An amount available under this section that is deobligated may be used for any purpose under this section.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 800; Pub. L. 104–287, § 5(9), (12), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 102–240, title III, § 3049(a), as added Pub. L. 105–130, § 8, Dec. 1, 1997, 111 Stat. 2559.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5309(a)(1)–(5).	49 App.:1602(a)(1)(A).	July 9, 1964, Pub. L. 88–365, § 3(a)(1)(A), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, § 2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93–503, §§ 102, 104, 106, 88 Stat. 1566, 1571, 1572; Nov. 6, 1978, Pub. L. 95–599, § 302(a), 92 Stat. 2735; Jan. 6, 1983, Pub. L. 97–424, § 313, 96 Stat. 2152.
	49 App.:1602(a)(1)(B), (C), (D) (1st, 3d sentences).	July 9, 1964, Pub. L. 88–365, § 3(a)(1)(B)–(D), (2)(B), (3), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, § 2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93–503, §§ 102, 104, 106, 88 Stat. 1566, 1571, 1572; restated Nov. 6, 1978, Pub. L. 95–599, § 302(a), 92 Stat. 2735, 2736.
5309(a)(6)	49 App.:1602(a)(1)(E).	July 9, 1964, Pub. L. 88–365, § 3(a)(1)(E), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, § 2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93–503, §§ 102, 104, 106, 88 Stat. 1566, 1571, 1572; Nov. 6, 1978, Pub. L. 95–599, § 302(a), 92 Stat. 2736; restated Dec. 18, 1991, Pub. L. 102–240, § 3006(a), 105 Stat. 2089.
5309(a)(7)	49 App.:1602(a)(1)(F).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 3(a)(1)(F); added Dec. 18, 1991, Pub. L. 102–240, § 3006(b), 105 Stat. 2089.
5309(b)(1)	49 App.:1602(b) (1st sentence).	July 9, 1964, Pub. L. 88–365, § 3(b), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; restated Oct. 15, 1970, Pub. L. 91–453, § 2(2), 84 Stat. 963; Nov. 6, 1978, Pub. L. 95–599, § 302(b), 92 Stat. 2737.
5309(b)(2)	49 App.:1602(a)(2)(B).	
5309(b)(3)	49 App.:1602(b) (8th, last sentences).	
5309(b)(4), (5).	49 App.:1602(b) (2d–6th sentences).	
5309(c)	49 App.:1602(a)(5).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 3(a)(5); added Jan. 6, 1983, Pub. L. 97–424, § 304(b), 96 Stat. 2149.
5309(d)	49 App.:1602(a)(2)(A).	July 9, 1964, Pub. L. 88–365, § 3(a)(2)(A), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, § 2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93–503, §§ 102, 104, 106, 88 Stat. 1566, 1571, 1572; Nov. 6, 1978, Pub. L. 95–599, § 302(a), 92 Stat. 2736; Jan. 6, 1983, Pub. L. 97–424, § 304(a), 96 Stat. 2149; restated Apr. 2, 1987, Pub. L. 100–17, § 309(e), 101 Stat. 227.
	49 App.:1602(a)(3).	
5309(e)(1)	49 App.:1602 (note).	Apr. 2, 1987, Pub. L. 100–17, § 303(b), 101 Stat. 223.
5309(e)(2)–(7).	49 App.:1602(i).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 3(i); added Apr. 2, 1987, Pub. L. 100–17, § 303(a), 101 Stat. 223; restated Dec. 18, 1991, Pub. L. 102–240, § 3010, 105 Stat. 2093.
5309(f)(1)	49 App.:1602(a)(1)(D) (last sentence).	
5309(f)(2)	49 App.:1602(a)(1)(D) (2d sentence).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5309(g)	49 App.:1602(a)(4).	July 9, 1964, Pub. L. 88–365, §3(a)(4), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, §2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93–503, §§102, 104, 106, 88 Stat. 1566, 1571, 1572; restated Nov. 6, 1978, Pub. L. 95–599, §302(a), 92 Stat. 2736; Jan. 6, 1983, Pub. L. 97–424, §305, 96 Stat. 2150; Apr. 2, 1987, Pub. L. 100–17, §302, 101 Stat. 223; Dec. 18, 1991, Pub. L. 102–240, §3007, 105 Stat. 2090.
5309(h)	49 App.:1603(a).	July 9, 1964, Pub. L. 88–365, §4(a), 78 Stat. 304; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, §704(a), 82 Stat. 535; Oct. 15, 1970, Pub. L. 91–453, §3(a), 84 Stat. 965; Aug. 13, 1973, Pub. L. 93–87, §301(a), 87 Stat. 295; Nov. 26, 1974, Pub. L. 93–503, §103(b), 88 Stat. 1571; Nov. 6, 1978, Pub. L. 95–599, §303(b), 92 Stat. 2737; Jan. 6, 1983, Pub. L. 97–424, §302(b), 96 Stat. 2141; Dec. 18, 1991, Pub. L. 102–240, §3006(f), (g), 105 Stat. 2089.
5309(i)	49 App.:1602(c) (2d, last sentences).	July 9, 1964, Pub. L. 88–365, §3(c), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; restated Oct. 15, 1970, Pub. L. 91–453, §2(2), 84 Stat. 964.
5309(j)	49 App.:1602(b) (7th sentence).	
5309(k)	49 App.:1602(c) (1st sentence).	
5309(*l*)	49 App.:1603(d).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §4(d); added Dec. 18, 1991, Pub. L. 102–240, §3006(h)(2), 105 Stat. 2090.
5309(m)(1) ..	49 App.:1602(k)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(k)(1); added Apr. 2, 1987, Pub. L. 100–17, §305, 101 Stat. 224; restated Dec. 18, 1991, Pub. L. 102–240, §3006(d)(1), 105 Stat. 2089.
5309(m)(2) ..	49 App.:1602(k)(3).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(k)(3); added Dec. 18, 1991, Pub. L. 102–240, §3006(d)(2), 105 Stat. 2089.
5309(m)(3) ..	49 App.:1602(j).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(j); added Apr. 2, 1987, Pub. L. 100–17, §304, 101 Stat. 223.
5309(m)(4) ..	49 App.:1602(k)(2).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(k)(2); added Apr. 2, 1987, Pub. L. 100–17, §305, 101 Stat. 224.
5309(n)	49 App.:1602(*l*).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(*l*); added Apr. 2, 1987, Pub. L. 100–17, §306(a), 101 Stat. 224; Dec. 18, 1991, Pub. L. 102–240, §3006(e), 105 Stat. 2089.
5309(*o*)	49 App.:1602(n).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(n); added Oct. 6, 1992, Pub. L. 102–388, §502(d), 106 Stat. 1566.

In subsection (a), before clause (1), the words ''in accordance with the provisions of this chapter'' are omitted as surplus. The words ''and on such terms and conditions as the Secretary may prescribe'' and 49 App.:1602(a)(1)(D) (3d sentence) are omitted as unnecessary because of section 5334(a) of the revised title and 49:322(a). The words ''(directly, through the purchase of securities or equipment trust certificates, or otherwise)'' and ''and agencies thereof'' are omitted as surplus. In clause (1), the word ''detailed'' is omitted as surplus. In clause (2), the words ''capital projects'' are substituted for ''the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service'' for clarity and consistency in this section. The words ''Eligible facilities and equipment may include personal property such as buses and other rolling stock, and rail and bus facilities, and real'' are omitted as surplus. The text of 49 App.:1602(a)(1)(B) (last sentence) is omitted as obsolete because former 49 App.:1604(a)(4) is executed and is not included in this restatement. In clause (3), the words ''the capital costs of'' are added for clarity and consistency in this section. The words ''highway and'' are omitted as surplus.

In subsection (b)(1), the word ''finance'' is omitted as surplus.

In subsection (b)(2), the words ''for real property acquisition'' are omitted as surplus. The words ''for an approved project'' are added for clarity and consistency. The words ''which shall be in lieu of the determination required by subparagraph (A)'', ''real'', and ''connection with'' are omitted as surplus.

In subsection (b)(3), the word ''comprehensive'' is omitted as surplus. The words ''by the project'' are added for clarity. The words ''a period of'' and ''longer'' are omitted as surplus.

In subsection (b)(4), the words ''a period not exceeding'' and ''Each agreement shall provide that'' are omitted as surplus. The words ''shall be made within the 10-year period'' are substituted for ''shall not be later than 10 years following the fiscal year in which the agreement is made'' to eliminate unnecessary words. The words ''if any, over the original cost of the real property'' are omitted as surplus. The words ''deposit in'' are substituted for ''credit to'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(5), the word ''actual'' is omitted as surplus. The words ''deposited in'' are substituted for ''credited to'' for consistency in the revised title and with other titles of the Code.

In subsection (c), before clause (1), the words ''grant or loan'' are substituted for ''assistance'' for consistency in the revised section. In clause (1), the words ''rail carrier'' are substituted for ''railroad'' for consistency in the revised title and with other titles of the Code.

In subsection (d), before clause (1), the words ''Except as provided in subsections (b)(2) and (e) of this section'' are added for clarity. In clause (1), the words ''through operation or lease or otherwise'' are omitted as surplus.

In subsection (e)(2), before clause (A), the word ''existing'' is added for clarity and consistency.

In subsection (e)(6)(C), the words ''Part A of title I of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1915)'' are substituted for ''the Federal-Aid Highway Act of 1991'' because the Federal-Aid Highway Act of 1991 was title I of H.R. 1531, that was not enacted into law but contained predecessor provisions to Part A of title I of H.R. 2950, enacted into law as the Intermodal Surface Transportation Efficiency Act of 1991.

In subsection (f)(1), the words ''or entity'' are omitted as surplus.

In subsection (f)(2), before clause (A), the words ''for a project under subsection (a)(5) of this section'' are added for clarity. In clause (B), the words ''whether publicly or privately owned'' are omitted as surplus.

In subsection (g)(1)(A), the words ''The letter shall be regarded as an intention to obligate'' are omitted as surplus.

In subsection (g)(1)(D), the words ''pursuant to such a letter of intent'' are omitted as surplus.

In subsection (g)(2)(A)(i), the words ''and conditions'' are omitted as being included in ''terms''.

In subsection (g)(4), the word ''issued'' is omitted as surplus. The text of 49 App.:1602(a)(4)(E) (3d sentence) is omitted as executed. The text of 49 App.:1602(a)(4)(E) (4th and last sentences) is omitted as obsolete.

In subsection (h), the words ''nature and extent of'' are omitted as surplus. The words ''net project cost''

are substituted for ''what portion of the cost of a project to be assisted under section 1602 of this Appendix cannot be reasonably financed from revenues—which portion shall hereinafter be called 'net project cost''' because of the definition of ''net project cost'' in section 5302(a) of the revised title. The words ''Except as provided in paragraph (2) of this subsection'' are added for clarity. The words ''Such remainder may be provided in whole or in part from other than public sources and any public or private'', ''solely'', and ''at any time'' are omitted as surplus. The words ''shall be deemed'' are omitted as unnecessary since the text is a statement of a legal conclusion.

In subsection (i), before clause (1), the words ''Except for a loan under subsection (b) of this section'' are added for clarity. The words ''made under this section'' and ''at a rate'' are omitted as surplus. In clause (1), the word ''market'' is omitted as surplus. In clause (2), the words ''under the program'' are omitted as surplus.

In subsection (j), the words ''loan and interest'' are substituted for ''principal and accrued interest on the loan then outstanding'' to eliminate unnecessary words.

In subsection (m)(1)(B) and (3), the word ''existing'' is added for clarity and consistency.

In subsection (m)(1), before clause (A), the words ''Subject to paragraph (3)'' are omitted as surplus. The reference to fiscal year 1992 is omitted as obsolete.

In subsection (m)(3), before clause (A), the words ''Not later than 30 days after April 2, 1987'' are omitted as executed. The words ''prepare and'' are omitted as surplus. The text of 49 App.:1602(j)(1) is omitted as obsolete because 49 App.:1602(k)(1) was restated by section 3006(d)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2089) and clause (D) was not carried forward.

In subsection (m)(4), the text of 49 App.:1602(k)(2)(B) is omitted as expired.

In subsection (n)(2), the words ''Subject to the provisions of this paragraph'', ''the Federal share of which the Secretary is authorized to pay under this subsection'', and ''actually'' are omitted as surplus.

PUB. L. 104–287, § 5(12)(A)

This amends 49:5309(a) to clarify the restatement of 49 App.:1602(a)(1) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 800).

PUB. L. 104–287, § 5(12)(B)

This amends 49:5309(e)(4)(B) to correct an erroneous cross-reference.

PUB. L. 104–287, § 5(12)(C)

This amends 49:5309(m)(1)(A) to make a conforming amendment.

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (e)(6)(A)(i), (B)(ii), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

Part A of title I of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (e)(6)(C), is part A (§§ 1001 to 1109) of title I of Pub. L. 102–240, Dec. 18, 1991, 105 Stat. 1915, as amended. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 101 of this title and Tables.

Subsection (a)(5) of this section, referred to in subsec. (f)(1), (2), was redesignated subsec. (a)(1)(E) by Pub. L. 104–287, § 5(12)(A)(i), (ii), Oct. 11, 1996, 110 Stat. 3389.

The National Environmental Policy Act of 1969, referred to in subsec. (g)(3)(A), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

1997—Subsec. (m)(1). Pub. L. 102–240, § 3049(a), as added by Pub. L. 105–130, inserted '', and for the period of October 1, 1997, through March 31, 1998'' after ''1997''.

1996—Subsec. (a). Pub. L. 104–287, § 5(12)(A), designated existing provisions as par. (1), redesignated former pars. (1) to (7) as subpars. (A) to (G) of par. (1), respectively, and former subpars. (A) and (B) of par. (5) as subcls. (i) and (ii) of subpar. (E), respectively, and added par. (2).

Subsec. (e)(4)(B). Pub. L. 104–287, § 5(12)(B), substituted ''paragraph (2)'' for ''paragraph (1)(B)''.

Subsec. (g)(1)(B). Pub. L. 104–287, § 5(9), substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

Subsec. (m)(1)(A). Pub. L. 104–287, § 5(12)(C), inserted ''rail'' before ''fixed guideway modernization''.

Subsec. (m)(3). Pub. L. 104–287, § 5(9), substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 5(12) of Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

ENCOURAGEMENT OF ADVERSELY AFFECTED INDUSTRIES TO COMPETE FOR CONTRACTS

Pub. L. 91–453, § 10, Oct. 15, 1970, 84 Stat. 968, as amended by Pub. L. 102–240, title III, § 3003(b), Dec. 18, 1991, 105 Stat. 2088, provided that: ''The Secretary of Transportation shall in all ways (including the provision of technical assistance) encourage industries adversely affected by reductions in Federal Government spending on space, military, and other Federal projects to compete for the contracts provided for under sections 3 and 6 of the Federal Transit Act (49 U.S.C. 1602 and 1605) [now 49 U.S.C. 5309 and 5312], as amended by this Act.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5301, 5310, 5315, 5319, 5320, 5323, 5324, 5327, 5328, 5331, 5333, 5334, 5337, 5338 of this title; title 42 sections 3013, 3338.

§ 5310. Grants and loans for special needs of elderly individuals and individuals with disabilities

(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants and loans to—

(1) State and local governmental authorities to help them provide mass transportation service planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities; and

(2) the chief executive officer of each State for allocation to—

(A) private nonprofit corporations and associations to help them provide that transportation service when the transportation service provided under clause (1) of this subsection is unavailable, insufficient, or inappropriate; or

(B) governmental authorities—

(i) approved by the State to coordinate services for elderly individuals and individuals with disabilities; or

(ii) that certify to the chief executive officer that no nonprofit corporation or association readily is available in an area to provide service under this subsection.

(b) APPORTIONING AND TRANSFERRING AMOUNTS.—The Secretary shall apportion

amounts made available under section 5338(a) of this title under a formula the Secretary administers that considers the number of elderly individuals and individuals with disabilities in each State. Any State's apportionment remaining available for obligation at the beginning of the 90-day period before the end of the period of availability of the apportionment is available to the chief executive officer of the State for transfer to supplement amounts apportioned to the State under section 5311(c) or 5336(a)(1) of this title.

(c) STATE PROGRAM OF PROJECTS.—Amounts made available for this section may be used for transportation projects to assist in providing transportation services for elderly individuals and individuals with disabilities that are included in a State program of projects. A program shall be submitted annually to the Secretary for approval and shall contain an assurance that the program provides for maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other United States Government sources.

(d) ELIGIBLE CAPITAL EXPENSES.—A recipient of amounts under this section may include acquiring transportation services as an eligible capital expense.

(e) APPLICATION OF SECTION 5309.—(1) A grant or loan under subsection (a)(1) of this section is subject to all requirements of a grant or loan under section 5309 of this title, and is deemed to have been made under section 5309.

(2) A grant or loan under subsection (a)(2) of this section is subject to requirements similar to those under paragraph (1) of this subsection to the extent the Secretary considers appropriate.

(f) MINIMUM REQUIREMENTS AND PROCEDURES FOR RECIPIENTS.—In carrying out section 5301(d) of this title, section 165(b) of the Federal-Aid Highway Act of 1973 (Public Law 93–87, 87 Stat. 282), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (consistent with Government-wide standards to carry out section 504), the Secretary shall prescribe regulations establishing minimum criteria a recipient of Government financial assistance under this chapter or a law referred to in section 165(b) shall comply with in providing mass transportation service to elderly individuals and individuals with disabilities and procedures for the Secretary to monitor compliance with the criteria. The regulations shall include provisions for ensuring that organizations and groups representing elderly individuals and individuals with disabilities are given adequate notice of, and an opportunity to comment on, the proposed activity of a recipient to achieve compliance with the regulations.

(g) LEASING VEHICLES.—The Secretary shall prescribe guidelines allowing vehicles bought under this section to be leased to local governmental authorities to improve transportation services designed to meet the special needs of elderly individuals and individuals with disabilities.

(h) MEAL DELIVERY SERVICE TO HOMEBOUND INDIVIDUALS.—Mass transportation service providers receiving assistance under this section or section 5311(c) of this title may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing mass transportation service or reduce service to mass transportation passengers.

(i) TRANSFER OF FACILITIES AND EQUIPMENT.—With the consent of the recipient currently having a facility or equipment acquired with assistance under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

(j) FARES NOT REQUIRED.—This chapter does not require that elderly individuals and individuals with disabilities be charged a fare.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 807.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5310(a)	49 App.:1612(b) (1st sentence words before cl. (1)), cls. (1) (words before 3d comma), (2) (words before ''with such grants'').	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §16(b) (1st sentence); added Oct. 15, 1970, Pub. L. 91–453, §8, 84 Stat. 967; restated Aug. 13, 1973, Pub. L. 93–87, §301(g), 87 Stat. 295; Dec. 18, 1991, Pub. L. 102–240, §3021(1)–(4), 105 Stat. 2110.
5310(b)	49 App.:1612(c)(2), (3).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §16(c); added Dec. 18, 1991, Pub. L. 102–240, §3021(6), 105 Stat. 2110; Oct. 6, 1992, Pub. L. 102–388, §502(k), 106 Stat. 1567.
5310(c)	49 App.:1612(c)(1).	
5310(d)	49 App.:1612(b) (1st sentence cl. (3)).	
5310(e)	49 App.:1612(b) (1st sentence cls. (1) (words after 3d comma), (2) (words after ''service under this subsection'')).	
5310(f)	49 App.:1612(e).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §16(e); added Jan. 6, 1983, Pub. L. 97–424, §317(c), 96 Stat. 2153; Apr. 2, 1987, Pub. L. 100–17, §327(a)(4), 101 Stat. 238; Dec. 18, 1991, Pub. L. 102–240, §3021(1), (5), 105 Stat. 2110.
5310(g)	49 App.:1612(c)(4).	
5310(h)	49 App.:1612(f).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §16(f); added Apr. 2, 1987, Pub. L. 100–17, §321, 101 Stat. 235; restated Dec. 18, 1991, Pub. L. 102–240, §3021(5), (7), 105 Stat. 2110, 2111.
5310(i)	49 App.:1614(g) (related to 1612(b)).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(g) (related to §16(b)); added Nov. 6, 1978, Pub. L. 95–599, §313, 92 Stat. 2750; restated Dec. 18, 1991, Pub. L. 102–240, §3022, 105 Stat. 2111.
5310(j)	49 App.:1604b.	Nov. 26, 1974, Pub. L. 93–503, §108, 88 Stat. 1572.

In this section, the words ''governmental authorities'' are substituted for ''public bodies'' because of section 5302(a) of the revised title.

In subsection (a), before clause (1), the words ''In addition to the grants and loans otherwise provided for under this chapter'' are omitted as surplus. In clauses (1) and (2), the words ''the specific purpose of'' are omitted as surplus. In clause (1), the words ''or agencies thereof'' are omitted as surplus.

In subsection (b), the words ''for expenditure'', ''to the States'', and ''amounts of a'' are omitted as surplus.

In subsection (d), the words ''A recipient of amounts under this section'' are added for clarity to correct an

error in the source provisions. The words ''under a contract, lease, or other arrangement'' are omitted as surplus.

In subsection (e), the words ''terms, conditions . . . and provisions'' are omitted as surplus.

In subsection (e)(1), the words ''and is deemed'' are substituted for ''and being considered for the purposes of all other laws'' for consistency in the revised title and with other titles of the United States Code.

In subsection (e)(2), the words ''insofar as may be appropriate'' and ''necessary or . . . for purposes of this paragraph'' are omitted as surplus.

In subsection (f), the words ''any applicable'' are omitted as surplus. The words ''prescribe regulations establishing'' are substituted for ''not later than ninety days after January 6, 1983, publish in the Federal Register for public comment, proposed regulations and, not later than one hundred and eighty days after January 6, 1983, promulgate final regulations, establishing'' to eliminate unnecessary and executed words. Section 3021(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2110) is applied to 49 App.:1612(e) to carry out the apparent intent of Congress.

In subsection (g), the words ''not later than 60 days following December 18, 1991'' are omitted as obsolete. The words ''and agencies'' are omitted as surplus.

In subsection (j), the words ''elderly individuals and individuals with disabilities'' are substituted for ''elderly and handicapped persons'' for consistency.

REFERENCES IN TEXT

Section 165(b) of the Federal-Aid Highway Act of 1973, referred to in subsec. (f), is section 165(b) of Pub. L. 93–87, which is set out as a note under section 142 of Title 23, Highways.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5301, 5307, 5323, 5333, 5334, 5338, 31138 of this title; title 42 sections 3013, 3035*l*.

§ 5311. Financial assistance for other than urbanized areas

(a) DEFINITION.—In this section, ''recipient'' includes a State authority, a local governmental authority, a nonprofit organization, and an operator of mass transportation service.

(b) GENERAL AUTHORITY.—(1) The Secretary of Transportation may make grants for transportation projects that are included in a State program of mass transportation service projects (including service agreements with private providers of mass transportation service) for areas other than urbanized areas. The program shall be submitted annually to the Secretary. The Secretary may approve the program only if the Secretary finds that the program provides a fair distribution of amounts in the State, including Indian reservations, and the maximum feasible coordination of mass transportation service assisted under this section with transportation service assisted by other United States Government sources.

(2) The Secretary of Transportation shall carry out a rural transportation assistance program in nonurbanized areas. In carrying out this paragraph, the Secretary may make grants and contracts for transportation research, technical assistance, training, and related support services in nonurbanized areas.

(c) APPORTIONING AMOUNTS.—The Secretary of Transportation shall apportion amounts made available under section 5338(a) of this title so that the chief executive officer of each State receives an amount equal to the total amount apportioned multiplied by a ratio equal to the population of areas other than urbanized areas in a State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent of the following: the latest Government census, the population estimate the Secretary of Commerce prepares after the 4th year after the date the latest census is published, or the population estimate the Secretary of Commerce prepares after the 8th year after the date the latest census is published. The amount may be obligated by the chief executive officer for 2 years after the fiscal year in which the amount is apportioned. An amount that is not obligated at the end of that period shall be reapportioned among the States for the next fiscal year.

(d) USE FOR LOCAL TRANSPORTATION SERVICE.—A State may use an amount apportioned under this section for a project included in a program under subsection (b) of this section and eligible for assistance under this chapter if the project will provide local transportation service, as defined by the Secretary of Transportation, in an area other than an urbanized area.

(e) USE FOR ADMINISTRATION AND TECHNICAL ASSISTANCE.—(1) The Secretary of Transportation may allow a State to use not more than 15 percent of the amount apportioned under this section to administer this section and provide technical assistance to a recipient, including project planning, program and management development, coordination of mass transportation programs, and research the State considers appropriate to promote effective delivery of mass transportation to an area other than an urbanized area.

(2) Except as provided in this section, a State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

(f) INTERCITY BUS TRANSPORTATION.—(1) A State shall expend at least 10 percent of the amount made available in the fiscal year ending September 30, 1993, and 15 percent of the amount made available in each fiscal year after September 30, 1993, to carry out a program to develop and support intercity bus transportation. Eligible activities under the program include—

(A) planning and marketing for intercity bus transportation;

(B) capital grants for intercity bus shelters;

(C) joint-use stops and depots;

(D) operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects; and

(E) coordinating rural connections between small mass transportation operations and intercity bus carriers.

(2) A State does not have to comply with paragraph (1) of this subsection in a fiscal year in which the chief executive officer of the State certifies to the Secretary of Transportation that the intercity bus service needs of the State are being met adequately.

(g) GOVERNMENT'S SHARE OF COSTS.—(1) In this subsection, ''amounts of the Government or revenues'' do not include amounts received under a service agreement with a State or local social

service agency or a private social service organization.

(2) A grant of the Government for a capital project under this section may not be more than 80 percent of the net cost of the project, as determined by the Secretary of Transportation. A grant to pay a subsidy for operating expenses may not be more than 50 percent of the net cost of the operating expense project. At least 50 percent of the remainder shall be provided in cash from sources other than amounts of the Government or revenues from providing mass transportation. Transit system amounts that make up the remainder shall be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(h) AMOUNTS FOR OPERATING ASSISTANCE.—An amount made available under this section may be used for operating assistance.

(i) TRANSFER OF FACILITIES AND EQUIPMENT.—With the consent of the recipient currently having a facility or equipment acquired with assistance under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

(j) RELATIONSHIP TO OTHER LAWS.—(1) Sections 5323(a)(1)(D) and 5333(b) of this title apply to this section but the Secretary of Labor may waive the application of section 5333(b).

(2) This subsection does not affect or discharge a responsibility of the Secretary of Transportation under a law of the United States.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 809.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5311(a)	49 App.:1614(c) (3d sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(b), (c) (2d, 3d sentences), (d), (e) (1st–4th sentences), (f); added Nov. 6, 1978, Pub. L. 95–599, §313, 92 Stat. 2749, 2750.
5311(b)(1)	49 App.:1614(b) (1st sentence 18th–last words, 2d, last sentences), (c) (2d sentence words between 1st and 2d commas).	
5311(b)(2)	49 App.:1614(h).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(h); added Apr. 2, 1987, Pub. L. 100–17, §323, 101 Stat. 235.
5311(c)	49 App.:1614(a) (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(a) (1st sentence); added Nov. 6, 1978, Pub. L. 95–599, §313, 92 Stat. 2748; Jan. 6, 1983, Pub. L. 97–424, §316(a), 96 Stat. 2153.
	49 App.:1614(a) (2d sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(a) (2d sentence); added Nov. 6, 1978, Pub. L. 95–599, §313, 92 Stat. 2748; Dec. 18, 1991, Pub. L. 102–240, §3024, 105 Stat. 2112.
	49 App.:1614(c) (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(c) (1st sentence); added Nov. 6, 1978, Pub. L. 95–599, §313, 92 Stat. 2749; Jan. 6, 1983, Pub. L. 97–424, §316(b), 96 Stat. 2153.
5311(d)	49 App.:1614(b) (1st sentence 1st–17th words), (c) (2d sentence words before 1st and after 2d commas).	
5311(e)(1)	49 App.:1614(d).	
5311(e)(2)	49 App.:1614(c) (4th sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(c) (4th sentence); added Apr. 2, 1987, Pub. L. 100–17, §322, 101 Stat. 235.
5311(f)	49 App.:1614(i).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(i); added Dec. 18, 1991, Pub. L. 102–240, §3023, 105 Stat. 2111.
5311(g)(1)	49 App.:1614(e) (last sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(e) (last sentence); added Dec. 19, 1985, Pub. L. 99–190, §326, 99 Stat. 1289.
5311(g)(2)	49 App.:1614(e) (1st–4th sentences).	
5311(h)	49 App.:1614(c) (last sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(c) (last sentence); added Oct. 6, 1992, Pub. L. 102–388, §502(*l*), 106 Stat. 1567.
5311(i)	49 App.:1614(g) (related to this section).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(g) (related to this section); added Nov. 6, 1978, Pub. L. 95–599, §313(a), 92 Stat. 2750; restated Dec. 18, 1991, Pub. L. 102–240, §3022, 105 Stat. 2111.
5311(j)	49 App.:1614(f).	

HISTORICAL AND REVISION NOTES—CONTINUED

In subsection (a), the words ''Eligible'' and ''and agencies thereof'' are omitted as surplus.

In subsection (b)(1), the words ''The Secretary of Transportation may make grants'' are added for clarity and consistency in this chapter. The word ''equitable'' is omitted as being included in ''fair''.

In subsection (b)(2), the words ''establish and'' are omitted as executed. The word ''direct'' is omitted as surplus.

In subsection (c), the words ''for expenditure in each fiscal year'' are omitted as surplus. The words ''so that'' are substituted for ''Such sums shall be made available for expenditure for public transportation projects in areas other than urbanized areas on the basis of a formula under which'' to eliminate unnecessary words. The words ''will be entitled to'' and ''as designated by the Bureau of the Census'' are omitted as surplus. The words ''United States'' are substituted for ''all the States'' for consistency in the revised title and with other titles of the Code. The words ''available'', ''a period of'', and ''the close of'' are omitted as surplus.

In subsection (d), the words ''included in a program under subsection (b) of this section'' are substituted for 49 App.:1614(b) (1st–17th words) and ''which are appropriate for areas other than urbanized areas'' to eliminate unnecessary words. The words ''for assistance'' are added for clarity.

In subsection (e)(1), the words ''of funds under this section. Such technical assistance'' and ''(public and private)'' are omitted as surplus.

In subsections (e)(2) and (g)(2), the word ''grant'' is substituted for ''share'' for consistency in this chapter.

In subsection (f), the text of 49 App.:1614(i)(3) is omitted as obsolete.

In subsection (f)(1), before clause (A), the words ''Subject to paragraph (2)'' are omitted as surplus. The reference to fiscal year 1992 is omitted as obsolete.

In subsection (g)(2), the words ''under this chapter'', ''as defined by the Secretary'', ''Any public or private'', ''solely'', and ''available in'' are omitted as surplus.

Subsection (h) is substituted for 49 App.:1614(c) (last sentence) for clarity and consistency in this chapter and to eliminate unnecessary words.

In subsection (j)(1), the text of 49 App.:1614(f) (1st sentence) is omitted as unnecessary because of section 5334(a) of the revised title and 49:322(a). The words ''in carrying out projects'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5310, 5319, 5323, 5327, 5331, 5333, 5334, 5336, 5338, 24305, 31138 of this title; title 42 section 3035*l*.

§ 5312. Research, development, demonstration, and training projects

(a) RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.—The Secretary of Transportation (or the Secretary of Housing and Urban Development when required by section 5334(i) of this title) may undertake, or make grants or contracts (including agreements with departments, agencies, and instrumentalities of the United States Government) for, research, development, and demonstration projects related to urban mass transportation that the Secretary decides will help reduce urban transportation needs, improve mass transportation service, or help mass transportation service meet the total urban transportation needs at a minimum cost. The Secretary may request and receive appropriate information from any source. This subsection does not limit the authority of the Secretary under another law.

(b) RESEARCH, INVESTIGATIONS, AND TRAINING.—(1) The Secretary of Transportation (or the Secretary of Housing and Urban Development when required by section 5334(i) of this title) may make grants to nonprofit institutions of higher learning—

(A) to conduct competent research and investigations into the theoretical or practical problems of urban transportation; and

(B) to train individuals to conduct further research or obtain employment in an organization that plans, builds, operates, or manages an urban transportation system.

(2) Research and investigations under this subsection include—

(A) the design and use of urban mass transportation systems and urban roads and highways;

(B) the interrelationship between various modes of urban and interurban transportation;

(C) the role of transportation planning in overall urban planning;

(D) public preferences in transportation;

(E) the economic allocation of transportation resources; and

(F) the legal, financial, engineering, and esthetic aspects of urban transportation.

(3) When making a grant under this subsection, the appropriate Secretary shall give preference to an institution that brings together knowledge and expertise in the various social science and technical disciplines related to urban transportation problems.

(c) TRAINING FELLOWSHIPS AND INNOVATIVE TECHNIQUES AND METHODS.—(1) The Secretary of Transportation may make grants to States, local governmental authorities, and operators of mass transportation systems to provide fellowships to train personnel employed in managerial, technical, and professional positions in the mass transportation field.

(2) The Secretary of Transportation may make grants to State and local governmental authorities for projects that will use innovative techniques and methods in managing and providing mass transportation.

(3) A fellowship under this subsection may be for not more than one year of training in an institution that offers a program applicable to the mass transportation industry. The recipient of the grant shall select an individual on the basis of demonstrated ability and for the contribution the individual reasonably can be expected to make to an efficient mass transportation operation. A grant for a fellowship may not be more than the lesser of $24,000 or 75 percent of—

(A) tuition and other charges to the fellowship recipient;

(B) additional costs incurred by the training institution and billed to the grant recipient; and

(C) the regular salary of the fellowship recipient for the period of the fellowship to the extent the salary is actually paid or reimbursed by the grant recipient.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 811.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5312(a)	49 App.:1605(a).	July 9, 1964, Pub. L. 88–365, § 6(a), 78 Stat. 305; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, § 13(b), 84 Stat. 969.
	49 App.:1605(d).	July 9, 1964, Pub. L. 88–365, § 6(d), 78 Stat. 305; Sept. 8, 1966, Pub. L. 89–562, § 3, 80 Stat. 717; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25.
5312(b)(1)	49 App.:1607c(a) (1st, 2d sentences).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 11(a); added Sept. 8, 1966, Pub. L. 89–562, § 2(a)(2), 80 Stat. 716.
5312(b)(2)	49 App.:1607c(a) (3d sentence).	
5312(b)(3)	49 App.:1607c(a) (last sentence).	
5312(c)(1)	49 App.:1607b (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 10; added Sept. 8, 1966, Pub. L. 89–562, § 2(a)(2), 80 Stat. 716; restated Nov. 6, 1978, Pub. L. 95–599, § 306, 92 Stat. 2744.
5312(c)(2)	49 App.:1603(c) (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 4(c) (1st sentence); added Nov. 6, 1978, Pub. L. 95–599, § 303(e), 92 Stat. 2739; Apr. 2, 1987, Pub. L. 100–17, § 320, 101 Stat. 235; Dec. 18, 1991, Pub. L. 102–240, § 3006(h)(1), 105 Stat. 2090.
5312(c)(3)	49 App.:1607b (2d–last sentences).	

In subsections (a) and (b)(1), the words ''(or the Secretary of Housing and Urban Development when required by section 5334(i) of this title)'' are added for clarity.

In subsection (a), the word ''working'' is omitted as surplus. The words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''other Federal departments and agencies'' for consistency in the revised title and with other titles of the United States Code. The words ''all phases of'', ''(including the development, testing, and demonstration of new facilities, equipment, techniques, and methods)'', ''In carrying out the provisions of this section'', ''or data as he deems'', ''public or private'', and ''contained . . . section 1701d–3 of title 12 or . . . other provision of'' are omitted as surplus.

In subsection (b)(1), before clause (A), the words ''public and private'', ''assist in establishing or carrying on comprehensive research in the problems of transportation in urban areas. Such grants shall be used to'', and ''and qualified'' are omitted as surplus. In clause (A), the words ''or both'' are omitted as surplus.

In subsection (b)(3), the word ''appropriate'' is added for clarity.

In subsection (c)(1), the words ''and agencies thereof'' are omitted as surplus.

In subsection (c)(3), before clause (A), the words ''public or private training'' and ''the sum of'' are omitted as surplus. In clause (B), the words ''in connection with the fellowship'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5313, 5314, 5333, 5334, 5338 of this title.

§ 5313. State planning and research programs

(a) COOPERATIVE RESEARCH PROGRAM.—(1) Fifty percent of the amounts made available under section 5338(g)(3) of this title are available for a mass transportation cooperative research program. The Secretary of Transportation shall establish an independent governing board for the program. The board shall recommend mass transportation research, development, and technology transfer activities the Secretary considers appropriate.

(2) The Secretary may make grants to, and cooperative agreements with, the National Academy of Sciences to carry out activities under this subsection that the Secretary decides are appropriate.

(b) STATE PLANNING AND RESEARCH.—(1) Fifty percent of the amounts made available under section 5338(g)(3) of this title shall be apportioned to States for grants and contracts consistent with the purposes of sections 5303–5306, 5312, 5315, 5317, and 5322 of this title. The amounts shall be apportioned so that each State receives an amount equal to the population in urbanized areas in the State, divided by the population in urbanized areas in all States, as shown by the latest available decennial census. However, a State must receive at least .5 percent of the amount apportioned under this subsection.

(2) A State, as the State considers appropriate, may authorize part of the amount made available under this subsection to be used to supplement amounts available under subsection (a) of this section.

(3) An amount apportioned under this subsection—

(A) remains available for 3 years after the fiscal year in which the amount is apportioned; and

(B) that is unobligated at the end of the 3-year period shall be reapportioned among the States for the next fiscal year.

(c) GOVERNMENT'S SHARE.—When there would be a clear and direct financial benefit to an entity under a grant or contract financed under subsection (a) of this section, the Secretary shall establish a United States Government share consistent with the benefit.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 812.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5313(a)	49 App.:1622(a)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 26(a); added Dec. 18, 1991, Pub. L. 102–240, § 3030, 105 Stat. 2117; Oct. 6, 1992, Pub. L. 102–388, § 502(r), 106 Stat. 1567.
5313(b)	49 App.:1622(a)(2).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5313(c)	49 App.:1622(b)(8) (related to subsection (a)(1)).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 26(b)(8) (related to subsection (a)(1)); added Dec. 18, 1991, Pub. L. 102–240, § 3030, 103 Stat. 2119.

In subsection (b)(1), the word ''total'' is omitted as surplus.

In subsection (b)(2), the word ''subsection'' in the source provision is translated as if it were ''paragraph'' to reflect the apparent intent of Congress.

In subsection (b)(3)(A), the words ''for obligation'', ''a period of'', and ''the close of'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5314, 5338 of this title; title 23 section 307.

§ 5314. National planning and research programs

(a) PROGRAM.—(1) The amounts made available under section 5338(g)(4) of this title are available to the Secretary of Transportation for grants and contracts for the purposes of sections 5303–5306, 5312, 5315, 5317, and 5322 of this title, as the Secretary considers appropriate.

(2) Of the amounts made available under paragraph (1) of this subsection, the Secretary shall make available at least $2,000,000 to provide mass transportation-related technical assistance, demonstration programs, research, public education, and other activities the Secretary considers appropriate to help mass transportation providers comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.). To the extent practicable, the Secretary shall carry out this paragraph through a contract with a national nonprofit organization serving individuals with disabilities that has a demonstrated capacity to carry out the activities.

(3) Not more than 25 percent of the amounts available under paragraph (1) of this subsection is available to the Secretary for special demonstration initiatives, subject to terms the Secretary considers consistent with this chapter, except that section 5323(a)(1)(D) of this title applies to an operational grant financed in carrying out section 5312(a) of this title. For a nonrenewable grant of not more than $100,000, the Secretary shall provide expedited procedures on complying with the requirements of this chapter.

(4)(A) The Secretary may undertake a program of mass transportation technology development in coordination with affected entities.

(B) The Secretary shall establish an Industry Technical Panel composed of representatives of transportation suppliers and operators and others involved in technology development. A majority of the Panel members shall represent the supply industry. The Panel shall assist the Secretary in identifying priority technology development areas and in establishing guidelines for project development, project cost sharing, and project execution.

(C) The Secretary shall develop guidelines for cost sharing in technology development projects financed under this paragraph. The guidelines shall be flexible and reflect the extent of tech-

nical risk, market risk, and anticipated supplier benefits and payback periods.

(5) The Secretary may use amounts appropriated under this subsection to supplement amounts available under section 5313(a) of this title, as the Secretary considers appropriate.

(b) GOVERNMENT'S SHARE.—When there would be a clear and direct financial benefit to an entity under a grant or contract financed under subsection (a) of this section, the Secretary shall establish a United States Government share consistent with the benefit.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 812.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5314(a)	49 App.:1622(b) (1)–(7).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 26(b)(1)–(8) (related to this subsection); added Dec. 18, 1991, Pub. L. 102–240, § 3030, 105 Stat. 2118.
5314(b)	49 App.:1622(b)(8) (related to this subsection).	

In subsection (a)(2), the word ''subsection'' in the source provision is translated as if it were ''paragraph'' to reflect the apparent intent of Congress.

In subsection (a)(3), the words ''conditions, requirements, and provisions'' are omitted as being included in ''terms''.

In subsection (a)(4)(C), the word ''section'' in the source provision is translated as if it were ''paragraph'' to reflect the apparent intent of Congress.

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (a)(2), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5338 of this title.

§ 5315. National mass transportation institute

(a) ESTABLISHMENT AND DUTIES.—The Secretary of Transportation shall make grants to Rutgers University to establish a national mass transportation institute. In cooperation with the Federal Transit Administration, State transportation departments, public mass transportation authorities, and national and international entities, the institute shall develop and conduct training programs of instruction for United States Government, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid mass transportation work. The programs may include courses in recent developments, techniques, and procedures related to—

(1) mass transportation planning;
(2) management;
(3) environmental factors;
(4) acquisition and joint use of rights of way;
(5) engineering;
(6) procurement strategies for mass transportation systems;
(7) turnkey approaches to carrying out mass transportation systems;
(8) new technologies;
(9) emission reduction technologies;
(10) ways to make mass transportation accessible to individuals with disabilities;
(11) construction;
(12) maintenance;
(13) contract administration; and
(14) inspection.

(b) RELATED EDUCATIONAL AND TRAINING PROGRAMS.—The Secretary shall delegate to the institute the authority of the Secretary to develop and conduct educational and training programs related to mass transportation.

(c) PROVIDING EDUCATION AND TRAINING.—Education and training of Government, State, and local transportation employees under this section shall be provided—

(1) by the Secretary at no cost to the States and local governments for subjects that are a Government program responsibility; or
(2) when the education and training are paid under subsection (d) of this section, by the State, with the approval of the Secretary, through grants and contracts with public and private agencies, other institutions, individuals, and the institute.

(d) AVAILABILITY OF AMOUNTS.—Not more than .5 percent of the amounts made available for a fiscal year beginning after September 30, 1991, to a State or public mass transportation authority in the State to carry out sections 5307 and 5309 of this title is available for expenditure by the State and public mass transportation authorities in the State, with the approval of the Secretary, to pay not more than 80 percent of the cost of tuition and direct educational expenses related to educating and training State and local transportation employees under this section.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 813; Pub. L. 104–287, § 5(13), Oct. 11, 1996, 110 Stat. 3390.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5315(a)	49 App.:1625(a) (1st–3d sentences).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 29(a)–(c); added Dec. 18, 1991, Pub. L. 102–240, § 6022, 105 Stat. 2185.
5315(b)	49 App.:1625(a) (last sentence).	
5315(c)	49 App.:1625(c).	
5315(d)	49 App.:1625(b).	

In subsection (a), before clause (1), the word ''conduct'' is substituted for ''administer'' for consistency in this section.

In subsection (d), the word ''department'' is omitted for consistency in this section.

PUB. L. 104–287

This amends 49:5315(d), 5317(b)(5), and 5323(b)(1), (c), and (e) to correct erroneous cross-references.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–287 substituted ''sections 5307 and 5309'' for ''sections 5304 and 5306''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5313, 5314, 5338 of this title.

§ 5316. University research institutes

(a) INSTITUTE FOR NATIONAL SURFACE TRANSPORTATION POLICY.—The Secretary of Transportation shall make grants to San Jose State University to establish and operate an institute for national surface transportation policy studies. The institute shall—

(1) include male and female students of diverse socioeconomic and ethnic backgrounds who are seeking careers in developing and operating surface transportation programs; and

(2) conduct research and development activities to analyze ways of improving aspects of developing and operating surface transportation programs of the United States.

(b) INFRASTRUCTURE TECHNOLOGY INSTITUTE.—The Secretary shall make grants to Northwestern University to establish and operate an institute to study techniques—

(1) to evaluate and monitor infrastructure conditions;

(2) to improve information systems for infrastructure construction and management; and

(3) to study advanced materials and automated processes for constructing and rehabilitating public works facilities.

(c) URBAN TRANSIT INSTITUTE.—The Secretary shall make grants to North Carolina A. and T. State University through the Institute for Transportation Research and Education, the University of South Florida, and a consortium of Florida A. and M., Florida State University, and Florida International University to establish and operate an interdisciplinary institute to study and disseminate techniques on the diverse transportation problems of urban areas experiencing significant and rapid growth.

(d) INSTITUTE FOR INTELLIGENT TRANSPORTATION CONCEPTS.—The Secretary shall make grants to the University of Minnesota, Center for Transportation Studies, to establish and operate a national institute for intelligent transportation concepts. The institute shall conduct research and recommend development activities that focus on methods to increase roadway capacity, enhance safety, and reduce negative environmental effects of transportation facilities by using intelligent transportation systems technologies.

(e) INSTITUTE FOR TRANSPORTATION RESEARCH AND EDUCATION.—The Secretary shall make grants to the University of North Carolina to conduct research and development and to direct technology transfer and training for State and local transportation authorities to improve the overall surface transportation infrastructure.

(f) APPLICABILITY OF TITLE 23.—Amounts authorized by section 5338(d) of this title may be obligated in the same way as amounts are apportioned under chapter 1 of title 23.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 814; Pub. L. 104–59, title III, §338(c)(5), Nov. 28, 1995, 109 Stat. 605.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5316(a)–(e) ..	49 App.:1607c(c)(1)–(5).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §11(c)(1)–(5), (7); added Dec. 18, 1991, Pub. L. 102–240, §6024, 105 Stat. 2188, 2189.
5316(f)	49 App.:1607c(c)(7).	

In this section, the duties and powers of the Secretary of Housing and Urban Development are omitted for clarity. Section 1(a)(1) of Reorganization Plan No. 2 of 1968 (eff. June 30, 1968, 82 Stat. 1369) provided that the Secretary retained the authority to make grants under section 11 of the Urban Mass Transportation Act of 1964 (Public Law 88–365, 78 Stat. 302), as added by section 2(a)(2) of the Act of September 8, 1966 (Public Law 89–562, 80 Stat. 716) [subsequently changed to the Federal Transit Act by section 303(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2087)] that primarily concerned the relationship of urban transportation systems to the planned development of urban areas or the role of transportation planning in overall urban planning. However, section 11(c) of the Federal Transit Act is not concerned with urban planning and the Secretary is not involved in making grants under section 11(c).

In subsection (a)(1), the word ''both'' is omitted as surplus.

AMENDMENTS

1995—Subsec. (d). Pub. L. 104–59 substituted ''intelligent transportation'' for ''intelligent vehicle-highway'' wherever appearing in heading and text.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5338 of this title.

§ 5317. Transportation centers

(a) GRANTS FOR REGIONAL TRANSPORTATION CENTERS.—(1) The Secretary of Transportation shall make grants to nonprofit institutions of higher learning to establish and operate regional transportation centers in each of the 10 United States Government regions that comprise the Standard Federal Regional Boundary System.

(2) A nonprofit institution of higher learning interested in receiving a grant under this subsection shall submit an application to the Secretary in the way and containing the information the Secretary prescribes. The Secretary shall select each recipient on the basis of the following:

(A) the regional transportation center is located in a State that is representative of the needs of the Government region for improved transportation and facilities.

(B) the demonstrated research and extension resources available to the recipient to carry out this subsection.

(C) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems.

(D) the recipient has an established transportation program encompassing several modes of transportation.

(E) the recipient has a demonstrated commitment of at least $200,000 in regularly budgeted institutional amounts each year to support ongoing transportation research programs.

(F) the recipient has a demonstrated ability to disseminate results of transportation re-

search and educational programs through a statewide or regionwide continuing educational program.

(G) the projects the recipient proposes to carry out under the grant.

(3)(A) At each regional transportation center, the following shall be carried out:

(i) infrastructure research on transportation.

(ii) research and training on transportation safety and the transportation of passengers and property and the interpretation, publication, and dissemination of the results of the research.

(B) Each transportation center—

(i) should carry out research on more than one mode of transportation; and

(ii) should consider the proportion of amounts for this subsection from amounts available to carry out urban mass transportation projects under this chapter and from the Highway Trust Fund.

(C) At one of the transportation centers, research may be carried out on the testing of new bus models.

(4) Before making a grant under this subsection, the Secretary may require the recipient to make an agreement with the Secretary to ensure that the recipient will maintain total expenditures from all other sources to establish and operate a regional transportation center and related research activities at a level at least equal to the average level of those expenditures in its 2 fiscal years prior to April 2, 1987.

(5) A grant under this subsection is for 50 percent of the cost of establishing and operating the regional transportation center and related research activities the recipient carries out.

(b) GRANTS FOR UNIVERSITY TRANSPORTATION CENTERS.—(1) To accelerate the involvement and participation of minority individuals and women in transportation-related professions, particularly in the science, technology, and engineering disciplines, the Secretary shall make grants to Morgan State University to establish a national center for transportation management, research, and development. The center shall give special attention to designing, developing, and carrying out research, training, and technology transfer activities to increase the number of highly skilled minority individuals and women entering the transportation workforce.

(2) The Secretary shall make grants to the New Jersey Institute of Technology to establish and operate a center for transportation and industrial productivity. The center shall conduct research and development activities that focus on ways to increase surface transportation capacity, reduce congestion, and reduce costs for transportation system users and providers through the use of transportation management systems.

(3) The Secretary shall make a grant to Monmouth College, West Long Branch, New Jersey, to modify and rebuild Building Number 500 at Monmouth College. Before making the grant, the Secretary shall receive assurances from Monmouth College that the building will be known and designated as the James and Marlene Howard Transportation Information Center and that transportation-related instruction and research in computer science, electronic engineering, mathematics, and software engineering conducted at the building will be coordinated with the Center for Transportation and Industrial Productivity at the New Jersey Institute of Technology.

(4) The Secretary shall make grants to the University of Arkansas to establish a national rural transportation center. The center shall conduct research, training, and technology transfer activities in the development, management, and operation of intermodal transportation systems in rural areas.

(5)(A) The Secretary shall make grants to the University of Idaho to establish a National Center for Advanced Transportation Technology. The Center shall be established and operated in partnership with private industry and shall conduct industry-driven research and development activities that focus on transportation-related manufacturing and engineering processes, materials, and equipment.

(B) The Secretary shall make grants to the University of Idaho to plan, design, and construct a building in which to conduct the research and development activities of the Center.

(C) Amounts authorized by section 5338(e)(2) of this title may be obligated in the same way as amounts apportioned under chapter 1 of title 23 (except that the Government share of the cost of the activities conducted under subparagraph (B) of this paragraph is 80 percent and the amounts remain available until expended) and are not subject to an obligational limitation.

(D) A grant made under this paragraph is not subject to the requirements of this section.

(c) PROGRAM COORDINATION.—The Secretary shall provide for coordinating research, education, training, and technology transfer activities that grant recipients carry out under this section, the dissemination of the results of the research, and the establishment and operation of a clearinghouse between the centers and the transportation industry. At least annually, the Secretary shall review and evaluate programs the grant recipients carry out. The Secretary may use not more than one percent of amounts made available from Government sources to carry out this section to carry out this subsection.

(d) OBLIGATION CEILING.—Amounts authorized to carry out this section (except subsection (b)(3)) are subject to obligational limitations established under section 1002 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1916).

(e) AMOUNTS AVAILABLE FOR TECHNOLOGY TRANSFER ACTIVITIES.—At least 5 percent of the amounts made available to carry out this section in a fiscal year are available to carry out technology transfer activities.

(f) ALLOCATION AMONG GOVERNMENT REGIONS.—The Secretary shall allocate amounts available to carry out this section equitably among the Government regions.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 815; Pub. L. 104–287, § 5(14), Oct. 11, 1996, 110 Stat. 3390.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5317(a)(1)	49 App.:1607c(b)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §11(b)(1)–(6), (14), (15); added Sept. 8, 1966, Pub. L. 89–562, §2(a)(2), 80 Stat. 716; Nov. 6, 1978, Pub. L. 95–599, §307, 92 Stat. 2745; Jan. 6, 1983, Pub. L. 97–424, §306(b), (c), 96 Stat. 2150; restated Apr. 2, 1987, Pub. L. 100–17, §314(a), 101 Stat. 230; Dec. 18, 1991, Pub. L. 102–240, §6023(a), (b), 105 Stat. 2186.
5317(a)(2)	49 App.:1607c(b)(3), (4).	
5317(a)(3)	49 App.:1607c(b)(2).	
5317(a)(4)	49 App.:1607c(b)(5).	
5317(a)(5)	49 App.:1607c(b)(6).	
5317(b)	49 App.:1607c(b)(7), (8)(A), (B)(i), (ii), (iv), (9), (10)(A), (B), (D), (E).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §11(b)(7), (8)(A), (B)(i), (ii), (iv), (9), (10)(A), (B), (D), (E), (11), (12); added Dec. 18, 1991, Pub. L. 102–240, §6023(b), 105 Stat. 2186, 2187.
5317(c)	49 App.:1607c(b)(11).	
5317(d)	49 App.:1607c(b)(12).	
5317(e)	49 App.:1607c(b)(15).	
5317(f)	49 App.:1607c(b)(14).	

In this section, the duties and powers of the Secretary of Housing and Urban Development are omitted for clarity. Section 1(a)(1) of Reorganization Plan No. 2 of 1968 (eff. June 30, 1968, 82 Stat. 1369) provided that the Secretary retained the authority to make grants under section 11 of the Urban Mass Transportation Act of 1964 (Public Law 88–365, 78 Stat. 302), as added by section 2(a)(2) of the Act of September 8, 1966 (Public Law 89–562, 80 Stat. 716) [subsequently changed to the Federal Transit Act by section 3003(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2087)] that primarily concerned the relationship of urban transportation systems to the planned development of urban areas or the role of transportation planning in overall urban planning. However, section 11(b) of the Federal Transit Act was amended by section 307 of the Federal Public Transportation Act of 1978 (Public Law 95–599, 92 Stat. 2745) and no longer is concerned with urban planning. Therefore, the Secretary is not involved in making grants under section 11(b).

In subsection (a)(1), the words ''In addition to grants authorized by subsection (a) of this section'' and ''one or more'' are omitted as surplus.

In subsection (a)(2), before clause (A), the word ''prescribes'' is substituted for ''may require by regulation'' for consistency in the revised title and with other titles of the United States Code. The word ''criteria'' is omitted as surplus. In clause (C), the word ''both'' is omitted as surplus. In clause (D), the words ''or programs'' are omitted because of 1:1.

In subsection (a)(3)(B)(i), the words ''carry out research on'' are substituted for ''cover'' for clarity and consistency.

In subsection (a)(3)(C), the words ''new bus models'' are substituted for ''new model buses'' because of the definition of ''new bus models'' in section 5302(a) of the revised title.

In subsection (a)(4), the words ''in any fiscal year'' are omitted as surplus.

In subsection (a)(5), the words ''The Federal share of'' are omitted as surplus.

In subsection (b)(3), the text of 49 App.:1607c(b)(8)(B)(iv) is omitted as obsolete.

In subsection (b)(5)(D), the words ''(except this paragraph)'' are added for clarity.

In subsection (d), the words ''out of the Highway Trust Fund (other than the Mass Transit Account)'' are omitted as surplus. The reference to section 1002 is substituted for the reference to section 102 to correct a mistake in the source provisions being restated in this subsection.

PUB. L. 104–287

This amends 49:5315(d), 5317(b)(5), and 5323(b)(1), (c), and (e) to correct erroneous cross-references.

REFERENCES IN TEXT

Section 1002 of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (d), is section 1002 of Pub. L. 102–240. Subsections (a) to (g) of section 1002 of the Act are set out as a note under section 104 of Title 23, Highways. Subsection (h) of section 1002 of the Act amended section 157 of Title 23.

AMENDMENTS

1996—Subsec. (b)(5)(C). Pub. L. 104–287, §5(14)(A), substituted ''under subparagraph (B) of this paragraph'' for ''under this paragraph''.

Subsec. (b)(5)(D). Pub. L. 104–287, §5(14)(B), struck out ''(except this paragraph)'' after ''requirements of this section''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5313, 5314, 5338 of this title.

§ 5318. Bus testing facility

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish one facility for testing a new bus model for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise. The facility shall be established by renovating a facility built with assistance of the United States Government to train rail personnel.

(b) OPERATION AND MAINTENANCE.—The Secretary shall make a contract with a qualified person to operate and maintain the facility. The contract may provide for the testing of rail cars and other vehicles at the facility.

(c) FEES.—The person operating and maintaining the facility shall establish and collect fees for the testing of vehicles at the facility. The Secretary must approve the fees.

(d) AVAILABILITY OF AMOUNTS TO PAY FOR TESTING.—The Secretary shall make a contract with the operator of the facility under which the Secretary shall pay 80 percent of the cost of testing a vehicle at the facility from amounts available under section 5338(j)(5) of this title. The entity having the vehicle tested shall pay 20 percent of the cost.

(e) REVOLVING LOAN FUND.—The Secretary has a bus testing revolving loan fund consisting of amounts authorized for the fund under section 317(b)(5) of the Surface Transportation and Uniform Relocation Assistance Act of 1987. The Secretary shall make available as repayable advances from the fund to the person operating and maintaining the facility amounts to operate and maintain the facility.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 817; Pub. L. 103–429, §6(8), Oct. 31, 1994, 108 Stat. 4378.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5318(a)	49 App.:1608 (note).	Apr. 2, 1987, Pub. L. 100–17, § 317(b)(1), 101 Stat. 233; Dec. 18, 1991, Pub. L. 102–240, § 6021(b), 105 Stat. 2184.
5318(b)	49 App.:1608 (note).	Apr. 2, 1987, Pub. L. 100–17, § 317(b)(2), 101 Stat. 233.
5318(c)	49 App.:1608 (note).	Apr. 2, 1987, Pub. L. 100–17, § 317(b)(3), 101 Stat. 233.
5318(d)	49 App.:1602(m) (2d–last sentences).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 3(m) (2d–last sentences); added Dec. 18, 1991, Pub. L. 102–240, § 3009, 105 Stat. 2093.
5318(e)	49 App.:1608 (note).	Apr. 2, 1987, Pub. L. 100–17, § 317(b)(5), 101 Stat. 233; Dec. 18, 1991, Pub. L. 102–240, § 6021(c), 105 Stat. 2184.
	49 App.:1608 (note).	Apr. 2, 1987, Pub. L. 100–17, 101 Stat. 132, § 317(b)(6); added Dec. 18, 1991, Pub. L. 102–240, § 6021(d), 105 Stat. 2184.

In subsection (c), the words ''Under the contract entered into under paragraph (2)'' are omitted as surplus.

In subsection (d), the words ''to the operator of the facility'' are omitted as surplus.

In subsection (e), the text of section 317(b)(5) of the Surface Transportation and Relocation Assistance Act of 1987 (Public Law 100–17, 101 Stat. 132) is omitted as obsolete. The words ''operating and maintaining the facility'' are substituted for ''described in paragraph (3)'' for clarity.

PUB. L. 103–429

This amends 49:5318(e) to correct an erroneous cross-reference.

REFERENCES IN TEXT

Section 317(b)(5) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, referred to in subsec. (e), is section 317(b)(5) of Pub. L. 100–17, which was set out as a note under section 1608 of former Title 49, Transportation, and was repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379. For further details, see Historical and Revision Notes for Pub. L. 103–272 above.

AMENDMENTS

1994—Subsec. (e). Pub. L. 103–429 inserted ''Uniform'' before ''Relocation''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5307, 5323, 5333, 5336, 5338 of this title.

§ 5319. Bicycle facilities

A project to provide access for bicycles to mass transportation facilities, to provide shelters and parking facilities for bicycles in or around mass transportation facilities, or to install equipment for transporting bicycles on mass transportation vehicles is a capital project eligible for assistance under sections 5307, 5309, and 5311 of this title. Notwithstanding sections 5307(e), 5309(h), and 5311(g) of this title, a grant of the United States Government under this chapter for a project under this section is for 90 percent of the cost of the project.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 818.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5319	49 App.:1621.	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 25; added Apr. 2, 1987, Pub. L. 100–17, § 326, 101 Stat. 237.

The words ''For purposes of this chapter'' and ''racks or other'' are omitted as surplus. The word ''grant'' is substituted for ''share'' for consistency in this chapter.

§ 5320. Suspended light rail system technology pilot project

(a) PURPOSE.—The purpose of this section is to provide for the construction by a public entity of a suspended light rail system technology pilot project—

(1) to assess the state of new technology for a suspended light rail system; and

(2) to establish the feasibility, costs, and benefits of using the system to transport passengers.

(b) GENERAL REQUIREMENTS.—The project shall—

(1) use new rail technology with individual vehicles on a prefabricated elevated steel guideway;

(2) be stability-seeking with a center of gravity for the detachable passenger vehicles located below the point of wheel-rail contact; and

(3) use vehicles that are driven by overhead bogies with high efficiency, low maintenance electric motors for each wheel, operating in a slightly sloped plane from vertical for the wheels and the running rails, to further increase stability, acceleration, and braking performance.

(c) COMPETITION.—(1) The Secretary of Transportation shall conduct a national competition to select a public entity with which to make a full financing grant agreement to construct the project. Not later than April 16, 1992, the Secretary shall select 3 public entities to be finalists in the competition. In conducting the competition and selecting public entities, the Secretary shall consider—

(A) the public entity's demonstrated understanding and knowledge of the project and its technical, managerial, and financial capacity to construct, manage, and operate the project; and

(B) maximizing potential contributions to the cost of the project by State, local, and private sector entities, including donation of in-kind services and materials.

(2) The Secretary shall award a grant to each finalist to be used to participate in the final phase of the competition under procedures the Secretary prescribes. A grant may not be more than 80 percent of the cost of participating. A finalist may not receive more than one-third of the amount made available under subsection (h)(1)(A) of this section.

(3) Not later than July 15, 1992, the Secretary shall select from among the 3 finalists a public entity with which to make a full financing grant agreement.

(d) ENVIRONMENTAL IMPACT.—Not later than 270 days after a public entity is selected under

subsection (c) of this section, the Secretary shall approve and publish in the Federal Register a notice announcing either a finding of no significant impact or a draft environmental impact statement for the project. The alternatives analysis for the project shall include a decision on whether to construct the project. If a draft statement is published, the Secretary, not later than 180 days after publication, shall approve and publish in the Federal Register a notice of completion of a final environmental impact statement.

(e) FULL FINANCING GRANT AGREEMENT.—Not later than 60 days after carrying out the requirements of subsection (d) of this section, the Secretary shall make a full financing grant agreement under section 5309 of this title with the public entity selected under subsection (c) of this section to construct the project. The agreement shall provide that the system vendor for the project shall finance—

(1) 100 percent of any deficit incurred in operating the project in the first 2 years of revenue operations of the project; and

(2) 50 percent of any deficit incurred in operating the project in the 3d year of revenue operations of the project.

(f) NOTICE TO PROCEED.—Not later than 30 days after making the full financing grant agreement, the Secretary shall issue a notice to proceed with construction.

(g) OPTION NOT TO CONSTRUCT AND REAWARDING THE GRANT.—(1) Not later than 30 days after completing preliminary engineering and design, the selected public entity shall decide whether to proceed to constructing the project. If the entity decides not to proceed—

(A) the Secretary shall not make the full financing grant agreement;

(B) remaining amounts received shall be returned to the Secretary and credited to the Mass Transit Account of the Highway Trust Fund; and

(C) the Secretary shall use the credited amount and other amounts to be provided under this section to award to another entity selected under subsection (c)(1) of this section a grant under section 5309 of this title to construct the project.

(2) Not later than 60 days after a decision is made under paragraph (1) of this subsection, a grant shall be awarded under paragraph (1)(C) of this subsection after completing a competitive process for selecting the grant recipient.

(h) FINANCING.—(1) The Secretary shall pay from amounts provided under section 5309 of this title the following:

(A) at least $1,000,000 for the fiscal year ending September 30, 1992, for grants under subsection (c)(2) of this section.

(B) at least $4,000,000 for the fiscal year ending September 30, 1993, for the United States Government share of the costs (as determined under section 5309 of this title) if the systems planning, alternatives analysis, preliminary engineering, and design and environmental impact statement are required by law for the project.

(C) at least $30,000,000 for the fiscal year ending September 30, 1994, as provided in the grant agreement under subsection (e) of this section, for the Government share of the construction costs of the project.

(2) The grant agreement under subsection (e) of this section shall provide that for the 3d year of revenue operations of the project, the Secretary shall pay from amounts provided under this section the Government share of operating costs in an amount equal to the lesser of 50 percent of the deficit incurred in operating the project in that year or $300,000.

(3) Amounts not expended under paragraph (1)(A) of this subsection are available for the Government share of costs described in paragraph (1)(B) and (C) of this subsection.

(4) Amounts under paragraph (1)(B) and (C) of this subsection remain available until expended.

(i) GOVERNMENT'S SHARE OF COSTS.—The Government share of the cost of constructing the project is 80 percent of the net cost of the project.

(j) PROJECT NOT SUBJECT TO MAJOR CAPITAL INVESTMENT POLICY.—The project is not subject to the major capital investment policy of the Federal Transit Administration.

(k) REPORT.—Not later than January 30, 1993, and each year after that date, the Secretary shall submit to Congress a report on the progress and results of the project.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 818; Pub. L. 103–429, §6(9), Oct. 31, 1994, 108 Stat. 4379.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5320(a)	49 App.:1622(c)(2).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §26(c); added Dec. 18, 1991, Pub. L. 102–240, §3030, 105 Stat. 2119.
5320(b)	49 App.:1622(c)(3).	
5320(c)	49 App.:1622(c)(4).	
5320(d)	49 App.:1622(c)(5) (1st–3d sentences).	
5320(e)	49 App.:1622(c)(1), (8).	
5320(f)	49 App.:1622(c)(6).	
5320(g)	49 App.:1622(c)(7).	
5320(h)	49 App.:1622(c)(9).	
5320(i)	49 App.:1622(c)(10).	
5320(j)	49 App.:1622(c)(5) (last sentence).	
5320(k)	49 App.:1622(c)(11).	

In subsections (c)(1), before clause (A), and (h)(2), the words ''Notwithstanding any other provision of law'' are omitted as surplus.

In subsection (c)(1), before clause (A), the text of 49 App.:1622(c)(4)(B) is omitted as executed.

In subsection (d), the words ''or not'' and ''actually'' are omitted as surplus.

In subsection (e), before clause (1), the words ''negotiate and'' are omitted as surplus.

In subsections (g)(1)(C) and (h)(1)(C) and (2), the word ''section'' in the source provision is translated as if it were ''subsection'' to reflect the apparent intent of Congress.

In subsection (g)(1), before clause (A), the words ''or not'' and ''actual'' are omitted as surplus. In clause (C), the words ''another entity'' are substituted for ''entities'', and the words ''paragraph (4)(e)'' in the source provision are translated as if they were ''paragraph (4)(C)'', for clarity.

PUB. L. 103–429

This amends 49:5320(g)(2) to correct an erroneous cross-reference.

AMENDMENTS

1994—Subsec. (g)(2). Pub. L. 103–429 substituted ''paragraph (1)(C) of this subsection'' for ''paragraph (1)(C) of this section''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5338 of this title.

§ 5321. Crime prevention and security

The Secretary of Transportation may make capital grants from amounts available under section 5338 of this title to mass transportation systems for crime prevention and security. This chapter does not prevent the financing of a project under this section when a local governmental authority other than the grant applicant has law enforcement responsibilities.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 820.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5321	49 App.:1620.	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 24; added Apr. 2, 1987, Pub. L. 100–17, § 325, 101 Stat. 237.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 13931.

§ 5322. Human resource programs

The Secretary of Transportation may undertake, or make grants and contracts for, programs that address human resource needs as they apply to mass transportation activities. A program may include—

(1) an employment training program;

(2) an outreach program to increase minority and female employment in mass transportation activities;

(3) research on mass transportation personnel and training needs; and

(4) training and assistance for minority business opportunities.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 820.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5322	49 App.:1616.	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 20; added Nov. 6, 1978, Pub. L. 95–599, § 315, 92 Stat. 2751.

In this section, before clause (1), the word ''make'' is substituted for ''provide financial assistance by'' to eliminate unnecessary words. The words ''national and local'' are omitted as surplus. The text of 49 App.:1616 (last sentence) is omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5313, 5314 of this title.

§ 5323. General provisions on assistance

(a) INTERESTS IN PROPERTY.—(1) Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or buy property of, a private mass transportation company, for a capital project for property acquired from a private mass transportation company after July 9, 1964, or to operate mass transportation equipment or a mass transportation facility in competition with, or in addition to, transportation service provided by an existing mass transportation company, only if—

(A) the Secretary of Transportation finds the assistance is essential to a program of projects required under sections 5303–5306 of this title;

(B) the Secretary of Transportation finds that the program, to the maximum extent feasible, provides for the participation of private mass transportation companies;

(C) just compensation under State or local law will be paid to the company for its franchise or property; and

(D) the Secretary of Labor certifies that the assistance complies with section 5333(b) of this title.

(2) A governmental authority may not use financial assistance of the United States Government to acquire land, equipment, or a facility used in mass transportation from another governmental authority in the same geographic area.

(b) NOTICE AND PUBLIC HEARING.—(1) An application for a grant or loan under this chapter for a capital project that will affect substantially a community, or the mass transportation service of a community, must include a certificate of the applicant that the applicant has—

(A) provided an adequate opportunity for a public hearing with adequate prior notice;

(B) held that hearing unless no one with a significant economic, social, or environmental interest requested one;

(C) considered the economic, social, and environmental effects of the project; and

(D) found that the project is consistent with official plans for developing the urban area.

(2) Notice of a hearing under this subsection shall include a concise description of the proposed project and shall be published in a newspaper of general circulation in the geographic area the project will serve. If a hearing is held, a copy of the transcript of the hearing shall be submitted with the application.

(c) ACQUIRING NEW BUS MODELS.—Amounts appropriated or made available under this chapter after September 30, 1989, may be obligated or expended to acquire a new bus model only if a bus of the model has been tested at the facility established under section 5318 of this title.

(d) BUYING AND OPERATING BUSES.—(1) Financial assistance under this chapter may be used to buy or operate a bus only if the applicant, governmental authority, or publicly owned operator that receives the assistance agrees that, except as provided in the agreement, the governmental authority or an operator of mass transportation for the governmental authority will not provide charter bus transportation service outside the urban area in which it provides regularly scheduled mass transportation service. An agreement shall provide for a fair arrangement

the Secretary of Transportation considers appropriate to ensure that the assistance will not enable a governmental authority or an operator for a governmental authority to foreclose a private operator from providing intercity charter bus service if the private operator can provide the service.

(2) On receiving a complaint about a violation of an agreement, the Secretary of Transportation shall investigate and decide whether a violation has occurred. If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement. In addition to a remedy specified in the agreement, the Secretary may bar a recipient under this subsection or an operator from receiving further assistance when the Secretary finds a continuing pattern of violations of the agreement.

(e) BUS PASSENGER SEAT FUNCTIONAL SPECIFICATIONS.—The initial advertising by a State or local governmental authority for bids to acquire buses using financial assistance under this chapter may include passenger seat functional specifications that are at least equal to performance specifications the Secretary of Transportation prescribes. The specifications shall be based on a finding by the State or local governmental authority of local requirements for safety, comfort, maintenance, and life cycle costs.

(f) SCHOOLBUS TRANSPORTATION.—(1) Financial assistance under this chapter may be used for a capital project, or to operate mass transportation equipment or a mass transportation facility, only if the applicant agrees not to provide schoolbus transportation that exclusively transports students and school personnel in competition with a private schoolbus operator. This subsection does not apply—

(A) to an applicant that operates a school system in the area to be served and a separate and exclusive schoolbus program for the school system;

(B) unless a private schoolbus operator can provide adequate transportation that complies with applicable safety standards at reasonable rates; and

(C) to a State or local governmental authority if it or a direct predecessor in interest from which it acquired the duty of transporting school children and personnel, and facilities to transport them, provided schoolbus transportation at any time after November 25, 1973, but before November 26, 1974.

(2) An applicant violating an agreement under this subsection may not receive other financial assistance under this chapter.

(g) BUYING BUSES UNDER OTHER LAWS.—Subsections (d) and (f) of this section apply to financial assistance to buy a bus under sections 103(e)(4) and 142(a) or (c) of title 23. However, subsection (f)(1)(C) of this section applies to sections 103(e)(4) and 142(a) or (c) only if schoolbus transportation was provided at any time after August 12, 1972, but before August 13, 1973.

(h) GRANT AND LOAN PROHIBITIONS.—A grant or loan may not be used to—

(1) pay ordinary governmental or nonproject operating expenses; or

(2) support a procurement that uses an exclusionary or discriminatory specification.

(i) GOVERNMENT'S SHARE OF COSTS FOR CERTAIN PROJECTS.—A Government grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment required by the Clean Air Act (42 U.S.C. 7401 et seq.) or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) is for 90 percent of the net project cost of the equipment that is attributable to complying with those Acts. The Secretary of Transportation, through practicable administrative procedures, may determine the costs attributable to that equipment.

(j) BUY AMERICA.—(1) The Secretary of Transportation may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

(2) The Secretary of Transportation may waive paragraph (1) of this subsection if the Secretary finds that—

(A) applying paragraph (1) would be inconsistent with the public interest;

(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

(C) when procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

(i) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the rolling stock; and

(ii) final assembly of the rolling stock has occurred in the United States; or

(D) including domestic material will increase the cost of the overall project by more than 25 percent.

(3) In this subsection, labor costs involved in final assembly are not included in calculating the cost of components.

(4) The Secretary of Transportation may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

(A) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

(5) A person is ineligible under subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, to receive a contract or subcontract made with amounts authorized under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914) if a court or department, agency, or instrumentality of the Government decides the person intentionally—

(A) affixed a ''Made in America'' label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

(B) represented that goods described in clause (A) of this paragraph were produced in the United States.

(6) The Secretary of Transportation may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

(7) Not later than January 1, 1995, the Secretary of Transportation shall submit to Congress a report on purchases from foreign entities waived under paragraph (2) of this subsection in the fiscal years ending September 30, 1992, and September 30, 1993. The report shall indicate the dollar value of items for which waivers were granted.

(k) APPLICATION OF SECTION 135 OF TITLE 23.—The planning and programming requirements of section 135 of title 23 apply to a grant made under sections 5307–5311 of this title.

(*l*) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—The Secretary of Transportation shall prescribe regulations requiring a preaward and postdelivery review of a grant under this chapter to buy rolling stock to ensure compliance with Government motor vehicle safety requirements, subsection (j) of this section, and bid specifications requirements of grant recipients under this chapter. Under this subsection, independent inspections and review are required, and a manufacturer certification is not sufficient.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 821; Pub. L. 103–429, § 6(10), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 104–287, § 5(15), Oct. 11, 1996, 110 Stat. 3390.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5323(a)(1)	49 App.:1602(e).	July 9, 1964, Pub. L. 88–365, § 3(e), 78 Stat. 303; Sept. 8, 1966, Pub. L. 89–562, § 2(b)(1), 80 Stat. 716; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, § 2(1), 84 Stat. 962; Nov. 6, 1978, Pub. L. 95–599, § 302(c), 92 Stat. 2737.
5323(a)(2)	49 App.:1608(e).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 12(e), (g); added Nov. 6, 1978, Pub. L. 95–599, § 308(d), 92 Stat. 2747.
5323(b)	49 App.:1602(d).	July 9, 1964, Pub. L. 88–365, § 3(d), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; restated Oct. 15, 1970, Pub. L. 91–453, § 2(2), 84 Stat. 964.
5323(c)	49 App.:1608(h)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 12(h)(1); added Apr. 2, 1987, Pub. L. 100–17, § 317(a), 101 Stat. 233.
5323(d)	49 App.:1602(f).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 3(f); added Jan. 4, 1974, Pub. L. 93–650, § 1(a), 89 Stat. 2–1; Aug. 22, 1974, Pub. L. 93–383, § 813(a), 88 Stat. 737; Nov. 26, 1974, Pub. L. 93–503, § 109(b), 88 Stat. 1573.
5323(e)	49 App.:1608(g).	
5323(f)	49 App.:1602(g).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 3(g); added Nov. 26, 1974, Pub. L. 93–503, § 109(a), 88 Stat. 1572.
5323(g)	49 App.:1602a.	Aug. 13, 1973, Pub. L. 93–87, § 164, 87 Stat. 281; Jan. 4, 1974, Pub. L. 93–650, § 1(b), 89 Stat. 2–1; Aug. 22, 1974, Pub. L. 93–383, § 813(b), 88 Stat. 737.
5323(h)	49 App.:1602(a)(2)(C).	July 9, 1964, Pub. L. 88–365, § 3(a)(2)(C), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, § 2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93–503, §§ 102, 104, 106, 88 Stat. 1566, 1571, 1572; restated Nov. 6, 1978, Pub. L. 95–599, § 302(a), 92 Stat. 2736.
5323(i)	49 App.:1608(m).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 12(m); added Dec. 18, 1991, Pub. L. 102–240, § 3020, 105 Stat. 2110.
5323(j)(1)	23:101 (note).	Jan. 6, 1983, Pub. L. 97–424, § 165(a) (related to the Urban Mass Transportation Act of 1964), 96 Stat. 2136; Mar. 9, 1984, Pub. L. 98–229, § 10, 98 Stat. 57; Dec. 18, 1991, Pub. L. 102–240, § 1048(a), 105 Stat. 1999.
5323(j)(2)	23:101 (note).	Jan. 6, 1983, Pub. L. 97–424, § 165(b) (related to the Urban Mass Transportation Act of 1964), 96 Stat. 2137; Apr. 2, 1987, Pub. L. 100–17, §§ 133(a)(6), 337(a)(1), (b), (c), 101 Stat. 171, 241.
5323(j)(3)	23:101 (note).	Jan. 6, 1983, Pub. L. 97–424, § 165(c) (related to the Urban Mass Transportation Act of 1964), 96 Stat. 2137.
5323(j)(4)	23:101 (note).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, § 165(g) (related to the Urban Mass Transportation Act of 1964); added Dec. 18, 1991, Pub. L. 102–240, § 1048(b), 105 Stat. 2000.
5323(j)(5)	23:101 (note).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, § 165(f) (related to the Urban Mass Transportation Act of 1964); added Dec. 18, 1991, Pub. L. 102–240, § 1048(b), 105 Stat. 1999.
5323(j)(6)	23:101 (note).	Jan. 6, 1983, Pub. L. 97–424, § 165(d) (related to the Urban Mass Transportation Act of 1964), 96 Stat. 2137.
5323(j)(7)	23:101 (note).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, § 165(e) (related to the Urban Mass Transportation Act of 1964); added Dec. 18, 1991, Pub. L. 102–240, § 1048(b), 105 Stat. 1999.
5323(k)	49 App.:1607(q).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 8(q); added Oct. 6, 1992, Pub. L. 102–388, § 502(i), 106 Stat. 1566.

In subsection (a)(1), before clause (A), the words ''directly or indirectly'', ''any facilities or other'', ''reconstructing'', and ''for the purpose of providing by contract or otherwise'' are omitted as surplus. In clause (C), the words ''and adequate'', ''acquisition of'', and ''applicable'' are omitted as surplus. In clause (D), the words ''the requirements of'' are omitted as surplus.

In subsection (a)(2), the words ''may not use'' are substituted for ''None of the provisions of this chapter shall be construed to authorize'' to eliminate unnecessary words. The words ''the purpose of financing'' are omitted as surplus.

In subsections (b)(1), (c), and (e), the words ''except section 5307'' are added for clarity because of 49 App.:1607a(e)(1), restated as section 5307(n)(2) of the revised title.

In subsection (b)(1), before clause (A), the word ''reconstruction'' is omitted as surplus. In clause (B), the words ''in the matter'' are omitted as surplus. In clause (C), the word ''environmental'' is substituted for ''and its impact on the environment'' to eliminate unnecessary words. In clause (D), the word ''comprehensive'' is omitted as surplus.

In subsection (b)(2), the word ''description'' is substituted for ''statement'' for clarity.

In subsections (d)–(f) and (h), the word ''Federal'' is omitted as surplus.

In subsections (d) and (f), the word ''provide'' is substituted for ''engage in'', and the word ''transportation'' is substituted for ''operations'', for consistency.

In subsection (d)(1), the words ''with the Secretary'', ''and equitable'', and ''publicly and privately owned'' are omitted as surplus.

In subsection (d)(2), the words ''alleged'', ''take appropriate action to'', ''and conditions'', and ''for mass transportation facilities and equipment'' are omitted as surplus.

In subsection (e), the words ''This subsection shall apply to'' and ''which is acquiring such buses'' are omitted as surplus. The words ''occurring on or after November 6, 1978'' are omitted as executed. The words ''In the case of'' are omitted as surplus. The words ''may include'' are substituted for ''the Secretary shall permit . . . to provide in advertising for bids for'' to eliminate unnecessary words.

In subsection (f)(1), before clause (A), the words ''for use in providing public'', ''to any applicant for such assistance'', and ''and the Secretary'' are omitted as surplus. The word ''agrees'' is substituted for ''shall have first entered into an agreement that such applicant'' to eliminate unnecessary words. In clause (A), the words ''with respect to operation of a schoolbus program'' are omitted as surplus.

Subsection (g) is substituted for 49 App.:1602a to eliminate unnecessary words.

In subsection (j), the word ''goods'' is substituted for ''products'' for consistency.

In subsection (j)(1), the words ''Notwithstanding any other provision of law'' are omitted as surplus.

In subsection (j)(2), before clause (A), the words ''The Secretary of Transportation may waive'' are substituted for ''shall not apply'' for clarity. In clause (B), the words ''steel, iron, and goods'' are substituted for ''materials and products'' for consistency. In clause (C), before subclause (i), the words ''bus and other'' are omitted as surplus. In subclauses (i) and (ii), the words ''rolling stock'' are substituted for ''vehicle or equipment'' for consistency. In clause (D), the word ''contract'' is omitted as surplus.

In subsection (j)(4), before clause (A), the words ''The Secretary of Transportation may not make a waiver under'' are substituted for ''shall not apply'' for clarity. The words ''government of a foreign country'' are substituted for ''foreign country'', and the word ''Government'' is added, for consistency in the revised title and with other titles of the United States Code.

In subsection (j)(5), before clause (A), the words ''the debarment, suspension, and ineligibility procedures in'' are omitted as surplus. The words ''department, agency, or instrumentality of the Government'' are substituted for ''Federal agency'' for consistency in the revised title and with other titles of the Code. In clause (A), the word ''produced'' is substituted for ''made'' for consistency.

In subsection (k), the word ''statewide'' is omitted as surplus.

PUB. L. 103–429, § 6(10)(A)

This makes a clarifying amendment to the catchline for 49:5323(j).

PUB. L. 103–429, § 6(10)(B)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5323(*l*)	49 App.:1608(j).	July 9, 1964, Pub. L. 88–365, § 12(j), as added Apr. 2, 1987, Pub. L. 100–17, § 319, 101 Stat. 234.

The word ''review'' is substituted for ''audit'' for clarity. The words ''buses and other'' are omitted as surplus.

PUB. L. 104–287

This amends 49:5315(d), 5317(b)(5), and 5323(b)(1), (c), and (e) to correct erroneous cross-references.

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (i), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (i), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (j)(5), is Pub. L. 102–240, Dec. 18, 1991, 105 Stat. 1914. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 101 of this title and Tables.

AMENDMENTS

1996—Subsecs. (b)(1), (c), (e). Pub. L. 104–287 struck out ''(except section 5307)'' after ''under this chapter''.

1994—Subsec. (j). Pub. L. 103–429, § 6(10)(A), substituted ''America'' for ''American'' in heading.

Subsec. (*l*). Pub. L. 103–429, § 6(10)(B), added subsec. (*l*).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5307, 5311, 5314, 5324, 5333, 5334, 5336 of this title; title 23 sections 103, 135, 142.

§ 5324. Limitations on discretionary and special needs grants and loans

(a) RELOCATION PROGRAM REQUIREMENTS.—Financial assistance may be provided under section 5309 of this title only if the Secretary of Transportation decides that—

(1) an adequate relocation program is being carried out for families displaced by a project; and

(2) an equal number of decent, safe, and sanitary dwellings are being, or will be, provided to those families in the same area or in another area generally not less desirable for public utilities and public and commercial facilities, at rents or prices within the financial means of those families, and with reasonable access to their places of employment.

(b) ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—(1) In carrying out section 5301(e) of this title, the Secretary of Transportation shall cooperate and consult with the Secretaries of Agriculture, Health and Human Services, Housing and Urban Development, and the Interior and the Council on Environmental Quality on each project that may have a substantial impact on the environment.

(2) In carrying out section 5309 of this title, the Secretary of Transportation shall review each transcript of a hearing submitted under section 5323(b) of this title to establish that an adequate opportunity to present views was given to all parties with a significant economic, social, or environmental interest and that the project application includes a statement on—

(A) the environmental impact of the proposal;

(B) adverse environmental effects that cannot be avoided;

(C) alternatives to the proposal; and

(D) irreversible and irretrievable impacts on the environment.

(3)(A) The Secretary of Transportation may approve an application for financial assistance under section 5309 of this title only if the Secretary makes written findings, after reviewing the application and any hearings held before a State or local governmental authority under section 5323(b) of this title, that—

(i) an adequate opportunity to present views was given to all parties with a significant economic, social, or environmental interest;

(ii) the preservation and enhancement of the environment, and the interest of the community in which a project is located, were considered; and

(iii) no adverse environmental effect is likely to result from the project, or no feasible and prudent alternative to the effect exists and all reasonable steps have been taken to minimize the effect.

(B) If a hearing has not been conducted or the Secretary of Transportation decides that the record of the hearing is inadequate for making the findings required by this subsection, the Secretary shall conduct a hearing on an environmental issue raised by the application after giving adequate notice to interested persons.

(C) A finding of the Secretary of Transportation under subparagraph (A) of this paragraph shall be made a matter of public record.

(c) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and, after a grant is made, may not regulate any charge for the system. However, the Secretary may require the local governmental authority, corporation, or association to comply with any undertaking provided by it related to its grant application.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 824.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5324(a)	49 App.:1606(a).	July 9, 1964, Pub. L. 88–365, § 7(a), 78 Stat. 305; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5324(b)(1)	49 App.:1610(a) (last sentence).	July 9, 1964, Pub. L. 88–365, § 14(a) (last sentence)–(c), 78 Stat. 308; Sept. 8, 1966, Pub. L. 89–562, § 2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; restated Oct. 15, 1970, Pub. L. 91–453, § 6, 84 Stat. 966.
5324(b)(2)	49 App.:1610(b).	
5324(b)(3)	49 App.:1610(c).	
5324(c)	49 App.:1608(d).	July 9, 1964, Pub. L. 88–365, § 12(d), 78 Stat. 307; Aug. 10, 1965, Pub. L. 89–117, § 1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89–562, § 2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25; Nov. 6, 1978, Pub. L. 95–599, § 308(c), 92 Stat. 2747.

In subsection (a), before clause (1), the word ''provided'' is substituted for ''extended'' for clarity. The words ''to any project'' are omitted as surplus. In clause (2), the words ''available . . . displaced'' are omitted as surplus.

In subsection (b)(1), the words ''Health and Human Services'' are substituted for ''Health, Education, and Welfare'' in section 14(a) (last sentence) of the Urban Mass Transportation Act of 1964 (Public Law 88–365, 78 Stat. 308) [subsequently changed to the Federal Transit Act by section 3003(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2087)] because of 20:3508(b).

In subsection (b)(2), before clause (A), the words ''In carrying out section 5306 of this title'' are added for clarity and consistency with subsections (b)(3) and (c) of this section. The word ''detailed'' is omitted as surplus. In clause (B), the words ''should the proposal be implemented'' are omitted as surplus. In clause (D), the words ''which may be involved in the proposed project should it be implemented'' are omitted as surplus.

In subsection (b)(3)(A), before clause (i), the word ''financial'' is added for clarity. The words ''full and complete'' are omitted as surplus. In clause (ii), the word ''fair'' is omitted as surplus. In clause (iii), the word ''either'' is omitted as surplus.

In subsection (b)(3)(B), the words ''before the State or local agency pursuant to section 1602(d) of this Appendix'' and ''before the State or local public agency . . . to permit him'' are omitted as surplus.

In subsection (c), the words ''The Secretary of Transportation may not'' are substituted for ''None of the provisions of this chapter shall be construed to authorize the Secretary to'' to eliminate unnecessary words. The words ''in any manner . . . mode of'' and ''rates, fares, tolls, rentals, or other . . . fixed or prescribed . . . by any local public or private transit agency'' are omitted as surplus. The words ''However, the Secretary may'' are substituted for ''but nothing in this subsection shall prevent the Secretary from taking such actions as may be necessary to'' to eliminate unnecessary words. The words ''local governmental authority, corporation, or association'' are substituted for ''agency or agencies'' for consistency with sections 5309 and 5310 of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5309, 5334 of this title.

§ 5325. Contract requirements

(a) NONCOMPETITIVE BIDDING.—A capital project or improvement contract for which a grant or loan is made under this chapter, if the contract is not made through competitive bidding, shall provide that records related to the contract shall be made available to the Sec-

retary of Transportation and the Comptroller General, or an officer or employee of the Secretary or Comptroller General, when conducting an audit and inspection.

(b) ACQUIRING ROLLING STOCK.—A recipient of financial assistance of the United States Government under this chapter may make a contract to expend that assistance to acquire rolling stock—

(1) based on—

(A) initial capital costs; or

(B) performance, standardization, life cycle costs, and other factors; or

(2) with a party selected through a competitive procurement process.

(c) PROCURING ASSOCIATED CAPITAL MAINTENANCE ITEMS.—A recipient of a grant under section 5307 of this title procuring an associated capital maintenance item under section 5307(b) may make a contract directly with the original manufacturer or supplier of the item to be replaced, without receiving prior approval of the Secretary, if the recipient first certifies in writing to the Secretary that—

(1) the manufacturer or supplier is the only source for the item; and

(2) the price of the item is no more than the price similar customers pay for the item.

(d) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—A contract for program management, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which a grant or loan is made under this chapter shall be awarded in the same way as a contract for architectural and engineering services is negotiated under title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.) or an equivalent qualifications-based requirement of a State. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 825; Pub. L. 104–287, §5(16), Oct. 11, 1996, 110 Stat. 3390.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5325(a)	49 App.:1608(b)(1).	July 9, 1964, Pub. L. 88–365, §12(b)(1), 78 Stat. 306; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; Nov. 6, 1978, Pub. L. 95–599, §308(a)(1), 92 Stat. 2745.
5325(b)	49 App.:1608(b)(2).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(b)(2); added Nov. 6, 1978, Pub. L. 95–599, §308(a)(2), 92 Stat. 2745; restated Jan. 6, 1983, Pub. L. 97–424, §308, 96 Stat. 2151.
5325(c)	49 App.:1608(b)(3).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(b)(3); added Apr. 2, 1987, Pub. L. 100–17, §315(a), 101 Stat. 232.
5325(d)	49 App.:1608(b)(4).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(b)(4); added Apr. 2, 1987, Pub. L. 100–17, §316, 101 Stat. 232.

In subsection (a), the words ''reconstruction'', ''in furtherance of the purposes'', ''by applicants'', ''procedures as defined by the Secretary'', ''of the contracting parties'', and ''the operations or activities under'' are omitted as surplus. The words ''shall be made available to'' are substituted for ''shall . . . have access to'', and the words ''an officer or employee of the Secretary or Comptroller General'' are substituted for ''any of their duly authorized representatives'', for consistency in the revised title and with other titles of the United States Code.

Subsection (b) is substituted for 49 App.:1608(b)(2) for clarity. The text of 49 App.:1608(b)(2) (last sentence) is omitted as executed.

PUB. L. 104–287

This amends the catchline for 49:5325(d) to make a clarifying amendment.

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (d), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Title IX of the Act is classified generally to subchapter VI (§541 et seq.) of chapter 10 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–287 substituted ''ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS'' for ''MANAGEMENT, ARCHITECTURAL, AND ENGINEERING CONTRACTS'' in heading.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5334 of this title.

§ 5326. Special procurements

(a) TURNKEY SYSTEM PROJECTS.—(1) In this subsection, ''turnkey system project'' means a project under which a recipient makes a contract with a seller, firm, or consortium of firms to construct a mass transportation system that meets specific performance criteria and that the seller operates for a period of time.

(2) To advance new technologies and lower the cost of a capital project for a new mass transportation system, the Secretary of Transportation shall allow solicitation for a turnkey system project to be financed under this chapter to be awarded conditionally before United States Government requirements have been met on the project if the award is made without prejudice to carrying out those requirements. Government financial assistance under this chapter may be made available for the project after the recipient complies with Government requirements.

(3) To develop guidelines applying generally to turnkey system projects, the Secretary may approve at least 2 projects for an initial demonstration phase. The results of the demonstration projects (and other projects using this procurement method on December 18, 1991) shall be considered in developing guidelines to carry out this subsection.

(b) MULTIYEAR ROLLING STOCK.—(1) A recipient procuring rolling stock with Government financial assistance under this chapter may make a

multiyear contract to buy the rolling stock and replacement parts under which the recipient has an option to buy additional rolling stock or replacement parts for not more than 5 years after the date of the original contract.

(2) The Secretary shall allow at least 2 recipients to act on a cooperative basis to procure rolling stock in compliance with this subsection and other Government procurement requirements.

(c) EFFICIENT PROCUREMENT.—A recipient may award a procurement contract under this chapter to other than the lowest bidder when the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs. Not later than March 17, 1992, the Secretary shall—

(1) make appropriate changes in existing procedures to make the policy stated in this subsection readily practicable for all mass transportation authorities; and

(2) prescribe guidance that clarifies and carries out the policy.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 826; Pub. L. 103–429, § 6(11), Oct. 31, 1994, 108 Stat. 4379.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5326	49 App.:1608(*l*).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 12(*l*); added Dec. 18, 1991, Pub. L. 102–240, § 3019, 105 Stat. 2109; Oct. 6, 1992, Pub. L. 102–388, § 502(j), 106 Stat. 1567.

In subsection (a)(1), the word ''individual'' is omitted as surplus.

In subsection (a)(2), the word ''relevant'' is omitted as surplus.

In subsection (b)(1), the word ''contract'' is substituted for ''agreement'' for consistency in this section.

In subsection (b)(2), the words ''form a consortium (or otherwise'' are omitted as surplus.

In subsection (c), before clause (1), the words ''a procurement contract'' are substituted for ''in connection with a procurement'' for clarity. In clause (1), the words ''including smaller and medium sized agencies'' are omitted as surplus.

PUB. L. 103–429

This amends 49:5326(a)(3) to provide consistent terminology in 49:5326.

AMENDMENTS

1994—Subsec. (a)(3). Pub. L. 103–429 substituted ''guidelines'' for ''regulations'' after ''develop''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§ 5327. Project management oversight

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—To receive United States Government financial assistance for a major capital project under this chapter or the National Capital Transportation Act of 1969 (Public Law 91–143, 83 Stat. 320), a recipient must prepare and carry out a project management plan approved by the Secretary of Transportation. The plan shall provide for—

(1) adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

(2) a budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

(3) a construction schedule for the project;

(4) a document control procedure and recordkeeping system;

(5) a change order procedure that includes a documented, systematic approach to the handling of construction change orders;

(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

(7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;

(8) material testing policies and procedures;

(9) internal plan implementation and reporting requirements;

(10) criteria and procedures to be used for testing the operational system or its major components;

(11) periodic updates of the plan, especially related to project budget and project schedule, financing, ridership estimates, and the status of local efforts to enhance ridership where ridership estimates partly depend on the success of those efforts; and

(12) the recipient's commitment to submit a project budget and project schedule to the Secretary each month.

(b) PLAN APPROVAL.—(1) The Secretary shall approve a plan not later than 60 days after it is submitted. If the approval cannot be completed within 60 days, the Secretary shall notify the recipient, explain the reasons for the delay, and estimate the additional time that will be required.

(2) The Secretary shall inform the recipient of the reasons when a plan is disapproved.

(c) LIMITATIONS ON USE OF AVAILABLE AMOUNTS.—(1) The Secretary may use not more than .5 percent of amounts made available for a fiscal year to carry out section 5307, 5309, or 5311 of this title, an interstate transfer mass transportation project under section 103(e)(4) of title 23 as in effect on September 30, 1991, or a project under the National Capital Transportation Act of 1969 (Public Law 91–143, 83 Stat. 320) to make a contract to oversee the construction of a major project under section 5307, 5309, 5311, or 103(e)(4) or that Act. The Secretary may use when necessary not more than an additional .25 percent of amounts made available in a fiscal year to carry out a major project under section 5309 to make a contract to oversee the construction of the project.

(2) The Secretary may use amounts available under paragraph (1) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a

recipient of amounts under paragraph (1). Subsections (a), (b), and (e) of this section do not apply to contracts under this paragraph.

(3) The Government shall pay the entire cost of carrying out a contract under this subsection.

(d) ACCESS TO SITES AND RECORDS.—Each recipient of assistance under this chapter or section 14(b) of the National Capital Transportation Act of 1969 (Public Law 91–143, 83 Stat. 320), as added by section 2 of the National Capital Transportation Amendments of 1979 (Public Law 96–184, 93 Stat. 1320), shall provide the Secretary and a contractor the Secretary chooses under subsection (c) of this section with access to the construction sites and records of the recipient when reasonably necessary.

(e) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall include—

(1) a definition of ''major capital project'' for subsection (c) of this section that excludes a project to acquire rolling stock or to maintain or rehabilitate a vehicle; and

(2) a requirement that oversight begin during the preliminary engineering stage of a project, unless the Secretary finds it more appropriate to begin the oversight during another stage of the project, to maximize the transportation benefits and cost savings associated with project management oversight.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 826; Pub. L. 103–429, §6(12), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 104–287, §5(17), Oct. 11, 1996, 110 Stat. 3390.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5327(a)	49 App.:1619(d), (e).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §23(b)–(g); added Apr. 2, 1987, Pub. L. 100–17, §324, 101 Stat. 236.
5327(b)	49 App.:1619(g).	
5327(c)(1)	49 App.:1619(a).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §23(a); added Apr. 2, 1987, Pub. L. 100–17, §324, 101 Stat. 235; Dec. 18, 1991, Pub. L. 102–240, §3027, 105 Stat. 2115.
5327(c)(2)	49 App.:1619(h).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §23(h); added Nov. 21, 1989, Pub. L. 101–164, §340, 103 Stat. 1099.
5327(c)(3)	49 App.:1619(b).	
5327(d)	49 App.:1619(c).	
5327(e)	49 App.:1619(f).	

In subsection (a), before clause (1), the words ''as required in each case by the Secretary'' are omitted as surplus. In clause (11), the words ''such items as'' and ''where applicable'' are omitted as surplus.

In subsection (c)(1), the words ''Beginning October 1, 1987'' are omitted as executed. The words ''with any person'' are omitted as surplus.

In subsection (c)(2), the words ''In addition to the purposes provided for under subsection (a) of this section'' and ''with any person'' are omitted as surplus. The cross-reference to paragraph (1) is not changed. The cross-reference in 49 App.:1619(h), the source provision being restated in this subsection, is no longer correct, but is apparently still meant to apply to funds made available under 49 App.:1619(a).

In subsection (e), before clause (1), the text of 49 App.:1619(f) (2d sentence) is omitted as executed. In clause (1), The words ''vehicles or other'' and ''the performance of'' are omitted as surplus.

PUB. L. 103–429

This amends 49:5327(c)(1) to correct an erroneous cross-reference.

PUB. L. 104–287

This amends 49:5327(c) to correct an erroneous cross-reference.

REFERENCES IN TEXT

The National Capital Transportation Act of 1969, referred to in subsecs. (a), (c)(1), and (d), is Pub. L. 91–143, Dec. 9, 1969, 83 Stat. 320, as amended, which amended section 24 of Title 12, Banks and Banking, and section 684 of Title 40, Public Buildings, Property, and Works, and repealed sections 651, 652, 661 to 665, 671, 682, and 683 of Title 40 and provisions set out as notes under section 651 of Title 40. Section 14(b) of that Act is not classified to the Code. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1996—Subsec. (c)(1). Pub. L. 104–287 substituted ''to carry out a major project under section 5309'' for ''to carry out a major project under section 5307''.

1994—Subsec. (c)(1). Pub. L. 103–429 substituted ''section 5307, 5309, 5311, or 103(e)(4) or that Act'' for ''section 5307, 5309, 5311, or 103(e)(4) of that Act''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5338 of this title.

§ 5328. Project review

(a) SCHEDULE.—(1) When the Secretary of Transportation allows a new fixed guideway project to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant in alternatives analysis and in preparing a draft environmental impact statement and shall approve the draft for circulation not later than 45 days after the applicant submits the draft to the Secretary.

(2) After the draft is circulated and not later than 30 days after the applicant selects a locally preferred alternative, the Secretary shall allow the project to advance to the preliminary engineering stage if the Secretary finds the project is consistent with section 5309(e)(1)–(6) of this title.

(3) The Secretary shall issue a record of decision and allow a project to advance to the final design stage of construction not later than 120 days after the final environmental impact statement for the project is completed.

(4) The Secretary shall make a full financing grant agreement under section 5309 of this title for a project not later than 120 days after the project enters the final design stage of construction. The agreement shall provide for a United States Government share of the construction cost at least equal to the Government share estimated in the Secretary's most recent report required under section 5309(m)(2) of this title or an update of the report unless the applicant requests otherwise.

(b) ALLOWED DELAYS.—(1) Advancement of a project under the time requirements of subsection (a) of this section may be delayed only—

(A) for the time the applicant may request; or

(B) during the time the Secretary finds, after reasonable notice and an opportunity for comment, that the applicant, for reasons attributable only to the applicant, has not complied substantially with the provisions of this chapter applicable to the project.

(2) Not more than 10 days after imposing a delay under paragraph (1)(B) of this subsection, the Secretary shall give the applicant a written statement explaining the reasons for the delay and describing actions the applicant must take to end the delay.

(3) At least once every 6 months, the Secretary shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on each situation in which the Secretary has not met a time requirement of subsection (a) of this section or delayed a time requirement under paragraph (1)(B) of this subsection. The report shall explain the reasons for the delay and include a plan for achieving timely completion of the Secretary's review.

(c) PROGRAM OF INTERRELATED PROJECTS.—(1) In this subsection, a program of interrelated projects includes the following:

(A) the New Jersey Urban Core Project (as defined in title III of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2087)).

(B) the San Francisco Bay Area Rail Extension Program, consisting of at least an extension of the San Francisco Bay Area Rapid Transit District to the San Francisco International Airport (Phase 1a to Colma and Phase 1b to San Francisco Airport), the Santa Clara County Transit District Tasman Corridor Project, a program element designated by a change to the Metropolitan Transportation Commission Resolution No. 1876, and a program element financed completely with non-Government amounts, including the BART Warm Springs Extension, Dublin Extension, and West Pittsburg Extension.

(C) the Los Angeles Metro Rail Minimum Operable Segment-3 Program, consisting of 7 stations and approximately 11.6 miles of heavy rail subway on the following lines:

(i) one line running west and northwest from the Hollywood/Vine station to the North Hollywood station, with 2 intermediate stations.

(ii) one line running west from the Wilshire/Western station to the Pico/San Vicente station, with one intermediate station.

(iii) the East Side Extension, consisting of an initial line of approximately 3 miles, with at least 2 stations, beginning at Union Station and running generally east.

(D) the Baltimore-Washington Transportation Improvement Program, consisting of 3 extensions of the Baltimore Light Rail to Hunt Valley, Penn Station, and Baltimore-Washington Airport, MARC extensions to Frederick and Waldorf, Maryland, and an extension of the Washington Subway system to Largo, Maryland.

(E) the Tri-County Metropolitan Transportation District of Oregon Light Rail Program, consisting of the locally preferred alternative for the Westside Light Rail Project, including system related costs, contained in the Department of Transportation and Related Agencies Appropriations Act, 1991 (Public Law 101–516, 104 Stat. 2155), and defined in House Report 101–584, the Hillsboro extension to the Westside Light Rail Project contained in that Act, and the locally preferred alternative for the South/North Corridor Project.

(F) the Queens Local/Express Connector Program, consisting of the locally preferred alternative for the connection of the 63d Street tunnel extension to the Queens Boulevard lines, the bell-mouth part of the connector that will allow for future access by commuter rail trains and other subway lines to the 63d Street tunnel extension, planning elements for connecting the upper and lower levels to commuter and subway lines in Long Island City, and planning elements for providing a connector for commuter rail transportation to the East side of Manhattan and subway lines to the proposed Second Avenue subway.

(G) the Dallas Area Rapid Transit Authority light rail elements of the New System Plan, consisting of the locally preferred alternative for the South Oak Cliff corridor, the South Oak Cliff corridor extension-Camp Wisdom, the West Oak Cliff corridor-Westmoreland, the North Central corridor-Park Lane, the North Central corridor-Richardson, Plano, and Garland extensions, the Pleasant Grove corridor-Buckner, and the Carrollton corridors-Farmers Branch and Las Colinas terminal.

(H) other programs designated by law or the Secretary.

(2) Consistent with the time requirements of subsection (a) of this section or as otherwise provided by law, the Secretary shall make at least one full financing grant agreement for each program described in paragraph (1) of this subsection. The agreement shall include commitments to advance each of the applicant's program elements (in the program of interrelated projects) through the appropriate program review stages as provided in subsection (a) or as otherwise provided by law and to provide Government financing for each element. The agreement may be changed to include design and construction of a particular element.

(3) When reviewing a project in a program of interrelated projects, the Secretary shall consider the local financial commitment, transportation effectiveness, and other assessment factors of all program elements to the extent consideration expedites carrying out the project.

(4) Including a program element not financed by the Government in a program of interrelated projects does not impose Government requirements that otherwise would not apply to the element.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 828; Pub. L. 104–205, title III, § 336, Sept. 30, 1996, 110

Stat. 2974; Pub. L. 104–287, §5(9), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5328(a)	49 App.:1602(a)(6).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(a)(6)–(8); added Jan. 6, 1983, Pub. L. 97–424, §304(b), 96 Stat. 2150; restated Dec. 18, 1991, Pub. L. 102–240, §3011(a), 105 Stat. 2095.
5328(b)	49 App.:1602(a)(7).	
5328(c)(1)	49 App.:1602(a)(8)(C).	
5328(c)(2)	49 App.:1602(a)(8)(A) (1st–3d sentences).	
5328(c)(3)	49 App.:1602(a)(8)(B).	
5328(c)(4)	49 App.:1602(a)(8)(A) (last sentence).	

In subsection (a)(1), the words ''the date on which'' are omitted as surplus.

In subsection (a)(2), the words ''the criteria set forth in'' are omitted as surplus.

In subsection (a)(4), the words ''negotiate and'' are omitted as surplus. The words ''under section 5309 of this title'' are added for clarity.

In subsection (b)(1)(A), the words ''solely at the applicant's discretion'' are omitted as surplus.

In subsection (c)(2), the words ''if appropriate'' are omitted as surplus.

REFERENCES IN TEXT

The Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (c)(1)(A), is Pub. L. 102–240, Dec. 18, 1991, 105 Stat. 1914, as amended. Title III of the Act is also known as the Federal Transit Act Amendments of 1991. Provisions defining the New Jersey Urban Core Project are contained in section 3031 of the Act, which is not classified to the Code. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 101 of this title and Tables.

The Department of Transportation and Related Agencies Appropriations Act, 1991, referred to in subsec. (c)(1)(E), is Pub. L. 101–516, Nov. 5, 1990, 104 Stat. 2155, as amended. Provisions relating to the Westside Light Rail Program are contained in section 328 of the Act, which is not classified to the Code. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1996—Subsec. (b)(3). Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

Subsec. (c)(1)(E). Pub. L. 104–205 struck out ''Westside'' after ''District of Oregon'' and ''and'' after ''House Report 101–584,'' and inserted before period at end '', and the locally preferred alternative for the South/North Corridor Project''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5333 of this title.

§ 5329. Investigation of safety hazards

(a) GENERAL.—The Secretary of Transportation may investigate a condition in equipment, a facility, or an operation financed under this chapter that the Secretary believes causes a serious hazard of death or injury to establish the nature and extent of the condition and how to eliminate or correct it. If the Secretary establishes that a condition causes a hazard, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for correcting it. The Secretary may withhold further financial assistance under this chapter until a plan is approved and carried out.

(b) REPORT.—Not later than June 15, 1992, the Secretary shall submit to Congress a report containing—

(1) a description of actions taken to identify and investigate conditions in a facility, equipment, or way of operating as part of the findings and decisions required of the Secretary in providing a grant or loan under this chapter;

(2) a description of actions of the Secretary to correct or eliminate, as a requirement for making an amount available through a grant or loan under this chapter, a condition found to create a serious hazard of death or injury;

(3) a summary of all passenger-related deaths and injuries resulting from an unsafe condition in a facility, equipment, or way of operating a facility or equipment at least partly financed under this chapter;

(4) a summary of all employee-related deaths and injuries resulting from an unsafe condition in a facility, equipment, or way of operating a facility or equipment at least partly financed under this chapter;

(5) a summary of action of the Secretary to correct or eliminate the unsafe condition to which the deaths and injuries referred to in clauses (3) and (4) of this subsection were attributed;

(6) a summary of actions of the Secretary to alert mass transportation operators of the nature of the unsafe condition found to create a serious hazard of death or injury; and

(7) recommendations of the Secretary to Congress of any legislative or administrative actions necessary to ensure that all recipients of amounts under this chapter will undertake the best way available to correct or eliminate hazards of death or injury, including—

(A) a timetable for undertaking actions;

(B) an estimate of the capital and operating cost to take the actions; and

(C) minimum standards for establishing and carrying out safety plans by recipients of amounts under this chapter.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 830.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5329(a)	49 App.:1618(a).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §22(a); added Jan. 6, 1983, Pub. L. 97–424, §318(b), 96 Stat. 2154; Dec. 18, 1991, Pub. L. 102–240, §3026(1), 105 Stat. 2114.
5329(b)	49 App.:1618(b).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §22(b); added Dec. 18, 1991, Pub. L. 102–240, §3026(2), 105 Stat. 2114.

In subsection (a), the words ''manner of'' are omitted as surplus. The word ''how'' is substituted for ''the means which might best be employed'' to eliminate unnecessary words. The words ''or eliminating'' and ''from the local public body'' are omitted as surplus. The words ''a plan is approved and carried out'' are substituted for ''he approves such plan and the local public body implements such plan'' to eliminate unnecessary words.

In subsection (b)(1) and (2), the words ''a description of'' are added for clarity.

§ 5330. Withholding amounts for noncompliance with safety requirements

(a) APPLICATION.—This section applies only to States that have rail fixed guideway mass transportation systems not subject to regulation by the Federal Railroad Administration.

(b) GENERAL AUTHORITY.—The Secretary of Transportation may withhold not more than 5 percent of the amount required to be appropriated for use in a State or urbanized area in the State under section 5307 of this title for a fiscal year beginning after September 30, 1994, if the State in the prior fiscal year has not met the requirements of subsection (c) of this section and the Secretary decides the State is not making an adequate effort to comply with subsection (c).

(c) STATE REQUIREMENTS.—A State meets the requirements of this section if the State—

(1) establishes and is carrying out a safety program plan for each fixed guideway mass transportation system in the State that establishes at least safety requirements, lines of authority, levels of responsibility and accountability, and methods of documentation for the system; and

(2) designates a State authority as having responsibility—

(A) to require, review, approve, and monitor the carrying out of each plan;

(B) to investigate hazardous conditions and accidents on the systems; and

(C) to require corrective action to correct or eliminate those conditions.

(d) MULTISTATE INVOLVEMENT.—When more than one State is subject to this section in connection with a single mass transportation authority, the affected States may designate an entity (except the mass transportation authority) to ensure uniform safety standards and enforcement and to meet the requirements of subsection (c) of this section.

(e) AVAILABILITY OF WITHHELD AMOUNTS.—(1) An amount withheld under subsection (b) of this section remains available for apportionment for use in the State until the end of the 2d fiscal year after the fiscal year for which the amount may be appropriated.

(2) If a State meets the requirements of subsection (c) of this section before the last day of the period for which an amount withheld under subsection (b) of this section remains available under paragraph (1) of this subsection, the Secretary, on the first day on which the State meets the requirements, shall apportion to the State the amount withheld that remains available for apportionment for use in the State. An amount apportioned under this paragraph remains available until the end of the 3d fiscal year after the fiscal year in which the amount is apportioned. An amount not obligated at the end of the 3-year period shall be apportioned for use in other States under section 5336 of this title.

(3) If a State does not meet the requirements of subsection (c) of this section at the end of the period for which an amount withheld under subsection (b) of this section remains available under paragraph (1) of this subsection, the amount shall be apportioned for use in other States under section 5336 of this title.

(f) REGULATIONS.—Not later than December 18, 1992, the Secretary shall prescribe regulations stating the requirements for complying with subsection (c) of this section.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 831.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5330(a)	49 App.:1624(d).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 28; added Dec. 18, 1991, Pub. L. 102–240, § 3029, 105 Stat. 2116.
5330(b)	49 App.:1624(a).	
5330(c)	49 App.:1624(b)(1), (2).	
5330(d)	49 App.:1624(b)(3).	
5330(e)	49 App.:1624(c).	
5330(f)	49 App.:1624(e).	

In subsection (e)(1), the words ''under subsection (a) of this section from apportionment for use in any State in a fiscal year'' are omitted as surplus.

In subsection (e)(2) and (3), the words ''from apportionment'' and ''for apportionment for use in a State'' are omitted as surplus.

§ 5331. Alcohol and controlled substances testing

(a) DEFINITIONS.—In this section—

(1) ''controlled substance'' means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) whose use the Secretary of Transportation decides has a risk to transportation safety.

(2) ''person'' includes any entity organized or existing under the laws of the United States, a State, territory, or possession of the United States, or a foreign country.

(3) ''mass transportation'' means any form of mass transportation, except a form the Secretary decides is covered adequately, for employee alcohol and controlled substances testing purposes, under section 20140 or 31306 of this title.

(b) TESTING PROGRAM FOR MASS TRANSPORTATION EMPLOYEES.—(1)(A) In the interest of mass transportation safety, the Secretary shall prescribe regulations that establish a program requiring mass transportation operations that receive financial assistance under section 5307, 5309, or 5311 of this title or section 103(e)(4) of title 23 to conduct preemployment, reasonable suspicion, random, and post-accident testing of mass transportation employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of a controlled substance in violation of law or a United States Government regulation, and to conduct reasonable suspicion, random, and post-accident testing of such employees for the use of alcohol in violation of law or a United States Government regulation. The regulations shall permit such operations to conduct preemployment testing of such employees for the use of alcohol.

(B) When the Secretary of Transportation considers it appropriate in the interest of safety, the Secretary may prescribe regulations for conducting periodic recurring testing of mass transportation employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(2) In prescribing regulations under this subsection, the Secretary of Transportation—

(A) shall require that post-accident testing of such a mass transportation employee be conducted when loss of human life occurs in an accident involving mass transportation; and

(B) may require that post-accident testing of such a mass transportation employee be conducted when bodily injury or significant property damage occurs in any other serious accident involving mass transportation.

(c) DISQUALIFICATIONS FOR USE.—(1) When the Secretary of Transportation considers it appropriate, the Secretary shall require disqualification for an established period of time or dismissal of any employee referred to in subsection (b)(1) of this section who is found—

(A) to have used or been impaired by alcohol when on duty; or

(B) to have used a controlled substance, whether or not on duty, except as allowed for medical purposes by law or regulation.

(2) This section does not supersede any penalty applicable to a mass transportation employee under another law.

(d) TESTING AND LABORATORY REQUIREMENTS.—In carrying out subsection (b) of this section, the Secretary of Transportation shall develop requirements that shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;

(2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines, including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested; and

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that a laboratory involved in controlled substances testing under this section have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that all tests indicating the use of alcohol or a controlled substance in violation of law or a Government regulation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent the possibility of tampering, so that if the individual's confirmation test results are positive the individual has an opportunity to have the retained part tested by a 2d confirmation test done independently at another certified laboratory if the individual requests the 2d confirmation test not later than 3 days after being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (except information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(e) REHABILITATION.—The Secretary of Transportation shall prescribe regulations establishing requirements for rehabilitation programs that provide for the identification and opportunity for treatment of any mass transportation employee referred to in subsection (b)(1) of this section who is found to have used alcohol or a controlled substance in violation of law or a Government regulation. The Secretary shall decide on the circumstances under which employees shall be required to participate in a program. This subsection does not prevent a mass transportation operation from establishing a program under this section in cooperation with another mass transportation operation.

(f) RELATIONSHIP TO OTHER LAWS, REGULATIONS, STANDARDS, AND ORDERS.—(1) A State or local government may not prescribe, issue, or continue in effect a law, regulation, standard, or order that is inconsistent with regulations prescribed under this section. However, a regulation prescribed under this section does not preempt a State criminal law that imposes sanctions for reckless conduct leading to loss of life, injury, or damage to property.

(2) In prescribing regulations under this section, the Secretary of Transportation—

(A) shall establish only requirements that are consistent with international obligations of the United States; and

(B) shall consider applicable laws and regulations of foreign countries.

(3) This section does not prevent the Secretary of Transportation from continuing in effect, amending, or further supplementing a regulation prescribed before October 28, 1991, governing the use of alcohol or a controlled substance by mass transportation employees.

(g) INELIGIBILITY FOR ASSISTANCE.—A person is not eligible for financial assistance under sec-

tion 5307, 5309, or 5311 of this title or section 103(e)(4) of title 23 if the person is required, under regulations the Secretary of Transportation prescribes under this section, to establish a program of alcohol and controlled substances testing and does not establish the program.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 832; Pub. L. 103–429, § 6(13), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 104–59, title III, § 342(a), Nov. 28, 1995, 109 Stat. 608.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5331(a)	49 App.:1618a(a).	Oct. 28, 1991, Pub. L. 102–143, § 6, 105 Stat. 962.
5331(b)	49 App.:1618a(b).	
5331(c)	49 App.:1618a(f).	
5331(d)	49 App.:1618a(d).	
5331(e)	49 App.:1618a(c).	
5331(f)	49 App.:1618a(e).	
5331(g)	49 App.:1618a(g).	

In subsection (a), before clause (1), the text of 49 App.:1618a(a)(3) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section. In clause (3), the words ''controlled substances'' are substituted for ''drug'' for consistency in this section.

In subsection (b)(1)(B), the word ''also'' is omitted as surplus.

In subsection (b)(2)(B), the words ''may require'' are substituted for ''as determined by the Secretary'' for clarity and to eliminate unnecessary words.

In subsection (d), the word ''samples'' is omitted as surplus.

In subsection (d)(2), before subclause (A), the word ''subsequent'' is omitted as surplus.

In subsection (d)(3), the words ''of any individual'' are omitted as surplus.

In subsection (d)(4), the words ''by any individual'' are omitted as surplus.

In subsection (d)(5), the word ''tested'' is substituted for ''assayed'' for consistency. The words ''2d confirmation test'' are substituted for ''independent test'' for clarity and consistency.

In subsection (d)(6), the word ''Secretary'' is substituted for ''Department'' for consistency in the revised title and with other titles of the United States Code.

In subsection (f)(1), the word ''prescribe'' is substituted for ''adopt'' for consistency in the revised title and with other titles of the Code. The word ''rule'' is omitted as being synonymous with ''regulation''. The word ''ordinance'' is omitted as being included in ''law'' and ''regulation''. The words ''whether the provisions apply specifically to mass transportation employees, or to the general public'' are omitted as surplus.

In subsection (f)(3), the word ''prevent'' is substituted for ''restrict the discretion of'' to eliminate unnecessary words.

In subsection (g) the words ''in accordance with such regulations'' are omitted as surplus.

PUB. L. 103–429

This amends 49:5331(a)(3) to correct an erroneous cross-reference.

AMENDMENTS

1995—Subsec. (b)(1)(A). Pub. L. 104–59 added subpar. (A) and struck out former subpar. (A) which read as follows: ''In the interest of mass transportation safety, the Secretary of Transportation shall prescribe regulations not later than October 28, 1992, that establish a program requiring mass transportation operations that receive financial assistance under section 5307, 5309, or 5311 of this title or section 103(e)(4) of title 23 to conduct preemployment, reasonable suspicion, random, and post-accident testing of mass transportation employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a United States Government regulation.''

1994—Subsec. (a)(3). Pub. L. 103–429 substituted ''section 20140 or 31306'' for ''subchapter III of chapter 201 or section 31306''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§ 5332. Nondiscrimination

(a) DEFINITION.—In this section, ''person'' includes a governmental authority, political subdivision, authority, legal representative, trust, unincorporated organization, trustee, trustee in bankruptcy, and receiver.

(b) PROHIBITIONS.—A person may not be excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance under this chapter because of race, color, creed, national origin, sex, or age.

(c) COMPLIANCE.—(1) The Secretary of Transportation shall take affirmative action to ensure compliance with subsection (b) of this section.

(2) When the Secretary decides that a person receiving financial assistance under this chapter is not complying with subsection (b) of this section, a civil rights law of the United States, or a regulation or order under that law, the Secretary shall notify the person of the decision and require action be taken to ensure compliance with subsection (b).

(d) AUTHORITY OF SECRETARY FOR NONCOMPLIANCE.—If a person does not comply with subsection (b) of this section within a reasonable time after receiving notice, the Secretary shall—

(1) direct that no further financial assistance of the United States Government under this chapter be provided to the person;

(2) refer the matter to the Attorney General with a recommendation that a civil action be brought;

(3) proceed under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); and

(4) take any other action provided by law.

(e) CIVIL ACTIONS BY ATTORNEY GENERAL.—The Attorney General may bring a civil action for appropriate relief when—

(1) a matter is referred to the Attorney General under subsection (d)(2) of this section; or

(2) the Attorney General believes a person is engaged in a pattern or practice in violation of this section.

(f) APPLICATION AND RELATIONSHIP TO OTHER LAWS.—This section applies to an employment or business opportunity and is in addition to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 834.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5332(a)	49 App.:1615(a)(5).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §19; added Nov. 6, 1978, Pub. L. 95–599, §314, 92 Stat. 2750.
5332(b)	49 App.:1615(a)(1) (1st sentence).	
5332(c)	49 App.:1615(a)(2), (3)(A).	
5332(d)	49 App.:1615(a)(3)(B).	
5332(e)	49 App.:1615(a)(4).	
5332(f)	49 App.:1615(a)(1) (last sentence).	

In subsection (a), the words ''the term'' and ''one or more'' are omitted as surplus. The words ''partnerships, associations, corporations'' and ''mutual companies, joint-stock companies'' are omitted because of 1:1.

In subsection (b), the word ''receiving'' is substituted for ''funded in whole or in part through'' to eliminate unnecessary words.

In subsection (c)(2), the words ''directly or indirectly'', ''issued'', and ''necessary'' are omitted as surplus.

In subsection (d), before clause (1), the words ''does not'' are substituted for ''fails or refuses to'' to eliminate unnecessary words. The words ''period of'' and ''pursuant to paragraph (a) of this subsection'' are omitted as surplus. In clause (2), the word ''appropriate'' is omitted as surplus. In clause (3), the words ''proceed under'' are substituted for ''exercise the powers and functions provided by'' to eliminate unnecessary words.

In subsection (e), before clause (1), the words ''in any appropriate district court of the United States'' and ''including injunctive relief'' are omitted as surplus.

In subsection (f), the words ''considered to be'' and ''and not in lieu of'' are omitted as surplus.

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsecs. (d)(3) and (f), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5307, 5336 of this title.

§ 5333. Labor standards

(a) PREVAILING WAGES REQUIREMENT.—The Secretary of Transportation shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed with a grant or loan under this chapter be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a–5). The Secretary of Transportation may approve a grant or loan only after being assured that required labor standards will be maintained on the construction work. For a labor standard under this subsection, the Secretary of Labor has the same duties and powers stated in Reorganization Plan No. 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(b) EMPLOYEE PROTECTIVE ARRANGEMENTS.—(1) As a condition of financial assistance under sections 5307–5312, 5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(j)(5) of this title, the interests of employees affected by the assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. The agreement granting the assistance under sections 5307–5312, 5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(j)(5) shall specify the arrangements.

(2) Arrangements under this subsection shall include provisions that may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of individual employees against a worsening of their positions related to employment;

(D) assurances of employment to employees of acquired mass transportation systems;

(E) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(F) paid training or retraining programs.

(3) Arrangements under this subsection shall provide benefits at least equal to benefits established under section 11326 of this title.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 835; Pub. L. 104–88, title III, §308(e), Dec. 29, 1996, 109 Stat. 947.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5333(a)	49 App.:1609(a), (b).	July 9, 1964, Pub. L. 88–365, §13, 78 Stat. 307; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), (b)(2), 80 Stat. 715, 716; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25.
5333(b)	49 App.:1609(c).	

In subsection (a), the words ''take such action as may be necessary to'', ''the performance of'', ''the assistance of'', and ''at rates'' are omitted as surplus. The word ''same'' is added for clarity. The words ''duties and powers'' are substituted for ''authority and functions'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the reference to sections 5307, 5308, 5310, and 5311 of the revised title is added for clarity because of 49 App.:1607a(e)(1), 1607a–2(a), 1612(b), and 1614(f), restated as sections 5307(n)(2), 5308(b)(1), 5310(a), and 5311(i) of the revised title. The reference to section 5312 is added for clarity because it is intended that 49 App.:1609(c) cover research, development, training, and demonstration projects. The words ''terms and conditions of the protective'' are omitted as surplus.

In subsection (b)(2), before clause (A), the words ''without being limited to'' are omitted as being included in ''include''. The words ''such provisions as may be necessary for'' are omitted as surplus. In clause (C), the word ''individual'' is omitted as surplus.

In subsection (b)(3), the words ''section 11347 of this title'' are substituted for and coextensive with ''section 5(2)(f) of the Act of February 4, 1887 (24 Stat. 379), as amended'' in section 13(c) of the Urban Mass Transportation Act of 1964 (Public Law 88–365, 78 Stat. 307) on authority of section 3(b) of the Act of October 17, 1978 (Public Law 95–473, 92 Stat. 1466).

REFERENCES IN TEXT

Act of March 3, 1931, referred to in subsec. (a), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, known as the Davis-Bacon Act, which is classified generally to sections 276a to 276a–5 of Title 40, Public Buildings,

Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Reorganization Plan No. 14 of 1950, referred to in subsec. (a), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1995—Subsec. (b)(3). Pub. L. 104–88 substituted ''11326'' for ''11347''.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5307, 5311, 5323, 5334, 5336 of this title.

§ 5334. Administrative

(a) GENERAL AUTHORITY.—In carrying out this chapter, the Secretary of Transportation may—

(1) prescribe terms for a project under sections 5307 and 5309–5311 of this title (except terms the Secretary of Labor prescribes under section 5333(b) of this title);

(2) sue and be sued;

(3) foreclose on property or bring a civil action to protect or enforce a right conferred on the Secretary of Transportation by law or agreement;

(4) buy property related to a loan under this chapter;

(5) agree to pay an annual amount in place of a State or local tax on real property acquired or owned under this chapter;

(6) sell, exchange, or lease property, a security, or an obligation;

(7) obtain loss insurance for property and assets the Secretary of Transportation holds;

(8) consent to a modification in an agreement under this chapter; and

(9) include in an agreement or instrument under this chapter a covenant or term the Secretary of Transportation considers necessary to carry out this chapter.

(b) PROCEDURES FOR PRESCRIBING REGULATIONS.—(1) The Secretary of Transportation shall prepare an agenda listing all areas in which the Secretary intends to propose regulations governing activities under this chapter within the following 12 months. The Secretary shall publish the proposed agenda in the Federal Register as part of the Secretary's semiannual regulatory agenda that lists regulatory activities of the Federal Transit Administration. The Secretary shall submit the agenda to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate on the day the agenda is published.

(2) Except for emergency regulations, the Secretary of Transportation shall give interested parties at least 60 days to participate in a regulatory proceeding under this chapter by submitting written information, views, or arguments, with or without an oral presentation, except when the Secretary for good cause finds that public notice and comment are unnecessary because of the routine nature or insignificant impact of the regulation or that an emergency regulation should be issued. The Secretary may extend the 60-day period if the Secretary decides the period is insufficient to allow diligent individuals to prepare comments or that other circumstances justify an extension.

(3) An emergency regulation ends 120 days after it is issued.

(4) The Secretary of Transportation shall comply with this section (except subsections (h) and (i)) and sections 5323(a)(2), (c) and (e), 5324(c), and 5325 of this title when proposing or carrying out a regulation governing an activity under this chapter, except for a routine matter or a matter with no significant impact.

(c) BUDGET PROGRAM AND SET OF ACCOUNTS.—The Secretary of Transportation shall—

(1) submit each year a budget program as provided in section 9103 of title 31; and

(2) maintain a set of accounts for audit under chapter 35 of title 31.

(d) DEPOSITORY AND AVAILABILITY OF AMOUNTS.—The Secretary of Transportation shall deposit amounts made available to the Secretary under this chapter in a checking account in the Treasury. Receipts, assets, and amounts obtained or held by the Secretary to carry out this chapter are available for administrative expenses to carry out this chapter.

(e) BINDING EFFECT OF FINANCIAL TRANSACTION.—A financial transaction of the Secretary of Transportation under this chapter and a related voucher are binding on all officers and employees of the United States Government.

(f) DEALING WITH ACQUIRED PROPERTY.—Notwithstanding another law related to the Government acquiring, using, or disposing of real property, the Secretary of Transportation may deal with property acquired under subsection (a)(3) or (4) of this section in any way. However, this subsection does not—

(1) deprive a State or political subdivision of a State of jurisdiction of the property; or

(2) impair the civil rights, under the laws of a State or political subdivision of a State, of an inhabitant of the property.

(g) TRANSFER OF ASSETS NO LONGER NEEDED.—(1) If a recipient of assistance under this chapter decides an asset acquired under this chapter at least in part with that assistance is no longer needed for the purpose for which it was acquired, the Secretary of Transportation may authorize the recipient to transfer the asset to a local governmental authority to be used for a public purpose with no further obligation to the Government. The Secretary may authorize a transfer for a public purpose other than mass transportation only if the Secretary decides—

(A) the asset will remain in public use for at least 5 years after the date the asset is transferred;

(B) there is no purpose eligible for assistance under this chapter for which the asset should be used;

(C) the overall benefit of allowing the transfer is greater than the interest of the Government in liquidation and return of the financial interest of the Government in the asset, after considering fair market value and other factors; and

(D) through an appropriate screening or survey process, that there is no interest in acquiring the asset for Government use if the asset is a facility or land.

(2) A decision under paragraph (1) of this section must be in writing and include the reason for the decision.

(3) This subsection is in addition to another law related to using and disposing of a facility or equipment under an assistance agreement.

(h) TRANSFER OF AMOUNTS AND NON-GOVERNMENT SHARE.—(1) Amounts made available for a mass transportation project under title 23 shall be transferred to and administered by the Secretary of Transportation under this chapter. Amounts made available for a highway project under this chapter shall be transferred to and administered by the Secretary under title 23.

(2) The provisions of title 23 related to the non-Government share apply to amounts under title 23 used for mass transportation projects. The provisions of this chapter related to the non-Government share apply to amounts under this chapter used for highway projects.

(i) AUTHORITY OF SECRETARY OF HOUSING AND URBAN DEVELOPMENT.—The Secretary of Housing and Urban Development shall—

(1) carry out section 5312(a) and (b)(1) of this title related to—

(A) urban transportation systems and planned development of urban areas; and

(B) the role of transportation planning in overall urban planning; and

(2) advise and assist the Secretary of Transportation in making findings under section 5323(a)(1)(A) of this title.

(j) RELATIONSHIP TO OTHER LAWS.—(1) Section 9107(a) of title 31 applies to the Secretary of Transportation under this chapter.

(2) Section 3709 of the Revised Statutes (41 U.S.C. 5) applies to a contract for more than $1,000 for services or supplies related to property acquired under this chapter.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 836; Pub. L. 104–287, §5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 104–316, title I, §127(a), Oct. 19, 1996, 110 Stat. 3840.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5334(a)	49 App.:1608(a) (1st sentence related to 12:1749a(c)(1)–(3) (1st sentence), (4)–(8), (10)).	July 9, 1964, Pub. L. 88–365, §12(a), 78 Stat. 306; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25.
5334(b)	49 App.:1608(i)(1), (2).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(i)(1), (2); added Apr. 2, 1987, Pub. L. 100–17, §318(a), 101 Stat. 233.
	49 App.:1608(i)(3).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(i)(3); added Dec. 18, 1991, Pub. L. 102–240, §3017, 105 Stat. 2108.
5334(c)	49 App.:1608(a) (1st sentence related to 12:1749a(a) (less proviso)).	
5334(d)	49 App.:1608(a) (1st sentence related to 12:1749a(b), last sentence).	
5334(e)	49 App.:1608(a) (1st sentence related to 12:1749a(a) (proviso)).	
5334(f)	49 App.:1608(a) (1st sentence related to 12:1749a(c)(3) (last sentence)).	
5334(g)	49 App.:1608(k).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(k); added Dec. 18, 1991, Pub. L. 102–240, §3018, 105 Stat. 2108.
5334(h)	49 App.:1607(k).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(k); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2104; Oct. 6, 1992, Pub. L. 102–388, §502(a), 106 Stat. 1566.
5334(i)	49 App.:1608 (note) (related to authority and functions reserved to Secretary of Housing and Urban Development).	Reorg. Plan No. 2 of 1968, eff. June 30, 1968, §1(a)(1) (related to authority and functions reserved to Secretary of Housing and Urban Development), 82 Stat. 1369.
5334(j)(1)	49 App.:1608(a) (1st sentence related to 12:1749a(e)).	
5334(j)(2)	49 App.:1608(a) (1st sentence related to 12:1749a(d)).	

In subsections (c)–(f), and (j), the relevant substantive provisions of 12:1749a are substituted for ''shall . . . have the functions, powers, and duties set forth in section 1749a of title 12, except subsections (c)(2) and (f) of such section'' for clarity. The reference to subsection (c)(2) is omitted as obsolete because section 201(d)(1) of the Housing and Community Development Technical Amendments Act of 1984 (Public Law 98–479, 98 Stat. 2228) repealed 12:1749a(c)(2). The words ''(in addition to any authority otherwise vested in him)'' are omitted as surplus.

In subsection (a), the text of 49 App.:1608(a) (1st sentence related to 12:1749a(c)(8)) is omitted as obsolete. Before clause (1), the words ''carrying out this chapter'' are substituted for ''the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter'' to eliminate unnecessary words. In clause (1), the words ''(except terms the Secretary of Labor prescribes under section 5333(b) of this title)'' are added for clarity because 49 App.:1608(a) only applies to the Secretary of Transportation and does not supersede the responsibility of the Secretary of Labor. In clause (3), the word ''civil'' is added for clarity. The words ''contract, or other'' are omitted as surplus. In clause (4), the words ''bid for and . . . at any foreclosure or any other sale'' are omitted as surplus. In clause (6), the words ''at public or private sale'', ''real or personal'', and ''upon such terms as he may fix'' are omitted as surplus. Clause (8) is substituted for 49 App.:1608(a) (1st sentence related to 12:1749a(c)(7)) to eliminate unnecessary words. In clause (9), the word ''provisions'' is omitted as surplus. The words ''carry out this chapter'' are substituted for ''assure that the purposes of this subchapter will be achieved'' to eliminate unnecessary words.

In subsection (b), the words ''regulatory'' and ''regulatory proceeding'' are substituted for ''rulemaking'' for consistency in the revised title and because ''rule'' and ''regulation'' are synonymous.

In subsection (b)(1), the words ''Federal Transit Administration'' are substituted for ''Urban Mass Transportation Administration'' because of section 3004(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2088). The words ''also'' and ''required by the first sentence of this paragraph'' are omitted as surplus.

In subsection (c), before clause (1), the words ''In the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter

. . . notwithstanding the provisions of any other law'' are omitted as surplus. In clause (1), the words ''prepare . . . and'' and ''for wholly owned Government corporations'' are omitted as surplus.

Subsection (d) is substituted for 49 App.:1608(a) (1st sentence related to 12:1749a(b) and last sentence) to eliminate unnecessary words.

In subsection (e), the words ''such . . . as the making of loans'' are omitted as surplus. The words ''under this chapter'' are added for clarity. The word ''related'' is substituted for ''in connection with such financial transactions'' to eliminate unnecessary words. The words ''approved by the Secretary'' are omitted as surplus. The word ''binding'' is substituted for ''final and conclusive'' to eliminate unnecessary words. The words ''and employees'' are added for consistency in the revised title and with other titles of the United States Code.

In subsection (f), before clause (1), the words ''in any way'' are substituted for ''complete, administer, remodel and convert, dispose of, lease and otherwise'' to eliminate unnecessary words. In clause (1), the words ''civil or criminal'' are omitted as surplus. In clause (2), the words ''political subdivision of a State'' are substituted for ''local'' for consistency.

In subsection (g)(1), before clause (A), the words ''facilities and equipment and other'', ''(including land)'', and ''first'' are omitted as surplus.

In subsection (g)(3), the words ''and not in lieu of'' are omitted as surplus.

Subsection (i) is substituted for section 1(a)(1) (related to authority and functions reserved to Secretary of Housing and Urban Development) of Reorganization Plan No. 2 of 1968 to eliminate unnecessary words. The reference to 49 App.:1602(c)(1) is translated as a reference to 49 App.:1602(e)(1) because section 2(1) of the Urban Mass Transportation Assistance Act of 1970 (Public Law 91–453, 84 Stat. 962) redesignated subsection (c) as subsection (e). The references to 49 App.:1603(a) (1st sentence), 1604, and 1607c(b) and former 49 App.:1607a are omitted as obsolete because of section 103(a) of the National Mass Transportation Act of 1974 (Public Law 93–503, 88 Stat. 1567) and sections 303(b), 305(a), and 307 of the Federal Public Transportation Act of 1978 (Public Law 95–599, 92 Stat. 2737, 2743, 2747). Reference to 49 App.:1607c(c) is omitted because it was enacted after the Reorganization Plan and was not intended to be within the scope of the Plan.

Subsection (j)(1) is substituted for 49 App.:1608(a) (1st sentence related to 12:1749a(e)) to eliminate unnecessary words.

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

Subsec. (c)(2). Pub. L. 104–316 substituted ''for'' for ''the Comptroller General shall''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5302, 5312, 5338 of this title.

§ 5335. Reports and audits

(a) REPORTING SYSTEM AND UNIFORM SYSTEM OF ACCOUNTS AND RECORDS.—(1) To help meet the needs of individual mass transportation systems, the United States Government, State and local governments, and the public for information on which to base mass transportation service planning, the Secretary of Transportation shall maintain a reporting system, by uniform categories, to accumulate mass transportation financial and operating information and a uniform system of accounts and records. The reporting and uniform systems shall contain appropriate information to help any level of government make a public sector investment decision. The Secretary may request and receive appropriate information from any source.

(2) The Secretary may make a grant under section 5307 of this title only if the applicant, and any person that will receive benefits directly from the grant, are subject to the reporting and uniform systems.

(b) QUARTERLY REPORTS.—Not later than 30 days after the last day of each calendar quarter, the Secretary shall submit to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate a report on—

(1) obligations by State, designated recipient, and applicant made under this chapter during the quarter;

(2) the balance of unobligated apportionments under this chapter on the last day of the quarter;

(3) the balance of unobligated amounts under this chapter on the last day of the quarter that the Secretary may expend;

(4) letters of intent issued during the quarter;

(5) letters of intent outstanding on the last day of the quarter; and

(6) grant contracts executed and reimbursement authority established for amounts obligated for each State, designated recipient, and applicant.

(c) BIENNIAL NEEDS REPORT.—In January 1993, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing an evaluation of the extent to which current mass transportation needs are addressed adequately and an estimate of the future mass transportation needs of the United States, including mass transportation needs in rural areas (particularly access to health care facilities). The report shall include—

(1) an assessment of needs related to rail modernization, guideway modernization, replacing, rehabilitating, and buying buses and related equipment, constructing bus related facilities, and constructing new fixed guideway systems and extensions to existing fixed guideway systems;

(2) a 5-year projection of maintenance and modernization needs resulting from aging of existing equipment and facilities, including the need to overhaul or replace existing bus fleets and rolling stock used on fixed guideway systems;

(3) a 5-year projection of the need to invest in the expansion of existing mass transportation systems to meet changing economic, commuter, and residential patterns;

(4) an estimate of the level of expenditure needed to satisfy the needs identified in clauses (1)–(3) of this paragraph;

(5) an examination of existing Government, State, local, and private resources that are or reasonably can be expected to be made available to support public mass transportation; and

(6) the gap between the level of expenditure estimated under clause (4) of this paragraph and the level of resources identified under clause (5) of this paragraph that are available to meet the needs.

(d) BIENNIAL TRANSFERABILITY REPORT.—In January 1993, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on carrying out section 5307(b)(5) of this title. The report shall—

(1) identify, by State, the amount of mass transportation money transferred for nonmass transportation purposes under section 5307(b)(5) of this title during the prior fiscal year;

(2) include an assessment of the impact of the transfers on the mass transportation needs of individuals and communities in the State, including the impact on—

(A) the State's ability to meet the mass transportation needs of elderly individuals and individuals with disabilities;

(B) efforts to meet the objectives of the Clean Air Act (42 U.S.C. 7401 et seq.) and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

(C) the State's efforts to extend public mass transportation services to unserved rural areas; and

(3) examine the relative levels of Government mass transportation assistance and services in urban and rural areas in the fiscal year that ended September 30, 1991, and the extent to which the assistance and service has changed in later fiscal years because of mass transportation resources made available under this chapter and the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914).

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 838; Pub. L. 104–287, §5(9), (18), Oct. 11, 1996, 110 Stat. 3389, 3390; Pub. L. 104–316, title I, §127(b), Oct. 19, 1996, 110 Stat. 3840.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5335(a)	49 App.:1608(j).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(j); added Apr. 2, 1987, Pub. L. 100–17, §319, 101 Stat. 234.
	49 App.:1611(a).	July 9, 1964, Pub. L. 88–365, §15(a), 78 Stat. 308; Sept. 8, 1966, Pub. L. 89–562, §§2(a)(1), 4, 80 Stat. 715, 717; Oct. 15, 1970, Pub. L. 91–453, §7, 84 Stat. 967; restated Nov. 26, 1974, Pub. L. 93–503, §111, 88 Stat. 1573.
	49 App.:1611(b).	July 9, 1964, Pub. L. 88–365, §15(b), 78 Stat. 308; Sept. 8, 1966, Pub. L. 89–562, §§2(a)(1), 4, 80 Stat. 715, 717; Oct. 15, 1970, Pub. L. 91–453, §7, 84 Stat. 967; restated Nov. 26, 1974, Pub. L. 93–503, §111, 88 Stat. 1573; Jan. 6, 1983, Pub. L. 97–424, §304(c), 96 Stat. 2150.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5335(b)	49 App.:1603(b)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §4(b)(1); added Nov. 6, 1978, Pub. L. 95–599, §303(e), 92 Stat. 2738; restated Apr. 2, 1987, Pub. L. 100–17, §307, 101 Stat. 226; Dec. 18, 1991, Pub. L. 102–240, §3006(h) (1), 105 Stat. 2090.
5335(c)	49 App.:1623(a).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §27; added Dec. 18, 1991, Pub. L. 102–240, §3028, 105 Stat. 2115.
5335(d)	49 App.:1623(b).	

In subsection (a), the text of 49 App.:1608(j) is omitted as superseded by 31:ch. 75.

In subsection (a)(1), the words ''by January 10, 1977'' are omitted as executed. The word ''maintain'' is substituted for ''develop, test, and prescribe'' for clarity. The text of 49 App.:1611(a) (3d and 4th sentences) is omitted as executed. The words ''or data as he deems'' and ''public or private'' are omitted as surplus.

In subsection (a)(2), the words ''After July 1, 1978'' are omitted as executed. The reference to 49 App.:1604 is omitted as obsolete. The words ''for such grant'', ''or organization'', ''each . . . both'', and ''prescribed under subsection (a) of this section'' are omitted as surplus.

In subsection (b)(1), the words ''commitments, and reservations'' are omitted as surplus.

In subsection (b)(2) and (3), the words ''uncommitted, and unreserved'' are omitted as surplus.

In subsection (b)(3) and (5), the words ''last day'' are substituted for ''close'' for consistency.

In subsection (b)(4), the words ''a listing of'' are omitted as surplus.

In subsection (b)(5), the words ''a status report on all'' are omitted as surplus.

In subsection (b)(6), the words ''a status report on'', ''a letter of credit or other'', and ''already'' are omitted as surplus.

In subsection (d), before clause (1), the words ''the transferability provisions of'' are omitted as surplus.

PUB. L. 104–287, §5(18)

This amends 49:5335(d)(2)(B) to amend an erroneous cross-reference.

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (d)(2)(B), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (d)(2)(B), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§12101 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (d)(3), is Pub. L. 102–240, Dec. 18, 1991, 105 Stat. 1914, as amended. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 101 of this title and Tables.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–287, §5(9), substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation'' in introductory provisions.

Subsec. (c). Pub. L. 104–316 struck out ''and in January of every 2d year after 1993'' after ''In January 1993'' in introductory provisions.

Pub. L. 104–287, §5(9), substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation'' in introductory provisions.

Subsec. (d). Pub. L. 104–316 struck out ''and in January of every 2d year after 1993'' after ''In January 1993'' in introductory provisions.

Pub. L. 104–287, §5(9), substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation'' in introductory provisions.

Subsec. (d)(2)(B). Pub. L. 104–287, §5(18), substituted ''Americans with Disabilities Act'' for ''Americans With Disabilities Act''.

§ 5336. Apportionment of appropriations for block grants

(a) BASED ON URBANIZED AREA POPULATION.—Of the amount made available or appropriated under section 5338(f) of this title—

(1) 9.32 percent shall be apportioned each fiscal year only in urbanized areas with a population of less than 200,000 so that each of those areas is entitled to receive an amount equal to—

(A) 50 percent of the total amount apportioned multiplied by a ratio equal to the population of the area divided by the total population of all urbanized areas with populations of less than 200,000 as shown in the latest United States Government census; and

(B) 50 percent of the total amount apportioned multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary of Transportation, of the number of inhabitants in each square mile; and

(2) 90.68 percent shall be apportioned each fiscal year only in urbanized areas with populations of at least 200,000 as provided in subsections (b) and (c) of this section.

(b) BASED ON FIXED GUIDEWAY REVENUE VEHICLE-MILES, ROUTE-MILES, AND PASSENGER-MILES.—(1) In this subsection, ''fixed guideway revenue vehicle-miles'' and ''fixed guideway route-miles'' include ferry boat operations directly or under contract by the designated recipient.

(2) Of the amount apportioned under subsection (a)(2) of this section, 33.29 percent shall be apportioned as follows:

(A) 95.61 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(i) 60 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway revenue vehicle-miles attributable to the area, as established by the Secretary of Transportation, divided by the total number of all fixed guideway revenue vehicle-miles attributable to all areas; and

(ii) 40 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway route-miles attributable to the area, established by the Secretary, divided by the total number of all fixed guideway route-miles attributable to all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

(B) 4.39 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(i) the number of fixed guideway vehicle passenger-miles traveled multiplied by the number of fixed guideway vehicle passenger-miles traveled for each dollar of operating cost in an area; divided by

(ii) the total number of fixed guideway vehicle passenger-miles traveled multiplied by the total number of fixed guideway vehicle passenger-miles traveled for each dollar of operating cost in all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

(C) Under subparagraph (A) of this paragraph, fixed guideway revenue vehicle- or route-miles, and passengers served on those miles, in an urbanized area with a population of less than 200,000, where the miles and passengers served otherwise would be attributable to an urbanized area with a population of at least 1,000,000 in an adjacent State, are attributable to the governmental authority in the State in which the urbanized area with a population of less than 200,000 is located. The authority is deemed an urbanized area with a population of at least 200,000 if the authority makes a contract for the service.

(D) A recipient's apportionment under subparagraph (A)(i) of this paragraph may not be reduced if the recipient, after satisfying the Secretary of Transportation that energy or operating efficiencies would be achieved, reduces revenue vehicle-miles but provides the same frequency of revenue service to the same number of riders.

(c) BASED ON BUS REVENUE VEHICLE-MILES AND PASSENGER-MILES.—Of the amount apportioned under subsection (a)(2) of this section, 66.71 percent shall be apportioned as follows:

(1) 90.8 percent of the total amount apportioned under this subsection shall be apportioned as follows:

(A) 73.39 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 1,000,000 is entitled to receive an amount equal to—

(i) 50 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus revenue vehicle-miles operated in or directly serving the urbanized area divided by the total bus revenue vehicle-miles attributable to all areas;

(ii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the latest Government census; and

(iii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied

by a ratio for the area based on population weighted by a factor, established by the Secretary of Transportation, of the number of inhabitants in each square mile.

(B) 26.61 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 200,000 but not more than 999,999 is entitled to receive an amount equal to—

(i) 50 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus revenue vehicle-miles operated in or directly serving the urbanized area divided by the total bus revenue vehicle-miles attributable to all areas;

(ii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the latest Government census; and

(iii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary of Transportation, of the number of inhabitants in each square mile.

(2) 9.2 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(A) the number of bus passenger-miles traveled multiplied by the number of bus passenger-miles traveled for each dollar of operating cost in an area; divided by

(B) the total number of bus passenger-miles traveled multiplied by the total number of bus passenger-miles traveled for each dollar of operating cost in all areas.

(d) OPERATING ASSISTANCE.—(1) The total amount apportioned under this section that may be used for operating assistance may not be more than—

(A) 80 percent of the total amount apportioned in the fiscal year ending September 30, 1982, under section 5(a)(1)(A), (2)(A), and (3)(A) of the Urban Mass Transportation Act of 1964[1] to urbanized areas with populations of at least 1,000,000;

(B) 90 percent of the total amount apportioned in that year under section 5(a)(1)(A), (2)(A), and (3)(A)[1] to urbanized areas with populations of at least 200,000 but not more than 999,999;

(C) 95 percent of the total amount apportioned in that year under section 5(a)(1)(A), (2)(A), and (3)(A)[1] to urbanized areas with populations of less than 200,000; or

(D) two-thirds of the total amount apportioned under this section during the first complete year an urbanized area received amounts under this section if the area first became an urbanized area under the 1980 Government census or later.

(2) Amounts apportioned under paragraph (1) of this subsection shall be increased on October 1 of each year by an amount equal to the amount applicable to each urbanized area under paragraph (1) (except increases under this paragraph), multiplied by the percentage increase in the Consumer Price Index for all-urban consumers published by the Secretary of Labor during the most recent calendar year. However, the increase may not be more than the percentage increase of amounts made available under section 5338(f) of this title in the current fiscal year and amounts made available under section 5338(f) in the prior fiscal year.

(e) DATE OF APPORTIONMENT.—The Secretary of Transportation shall—

(1) apportion amounts appropriated under section 5338(f) of this title to carry out section 5307 of this title not later than the 10th day after the date the amounts are appropriated or October 1 of the fiscal year for which the amounts are appropriated, whichever is later; and

(2) publish apportionments of the amounts, including amounts attributable to each urbanized area with a population of more than 50,000 and amounts attributable to each State of a multistate urbanized area, on the apportionment date.

(f) AMOUNTS NOT APPORTIONED TO DESIGNATED RECIPIENTS.—The chief executive officer of a State may expend in an urbanized area with a population of less than 200,000 an amount apportioned under this section that is not apportioned to a designated recipient as defined in section 5307(a) of this title.

(g) TRANSFERS OF APPORTIONMENTS.—(1) The chief executive officer of a State may transfer any part of the State's apportionment under subsection (a)(1) of this section to supplement amounts apportioned to the State under section 5311(c) of this title or amounts apportioned to urbanized areas under this subsection. The chief executive officer may make a transfer only after consulting with responsible local officials and publicly owned operators of mass transportation in each area for which the amount originally was apportioned under this section.

(2) The chief executive officer of a State may transfer any part of the State's apportionment under section 5311(c) of this title to supplement amounts apportioned to the State under subsection (a)(1) of this section.

(3) The chief executive officer of a State may use throughout the State amounts of a State's apportionment remaining available for obligation at the beginning of the 90-day period before the period of the availability of the amounts expires.

(4) A designated recipient for an urbanized area with a population of at least 200,000 may transfer a part of its apportionment under this section to the chief executive officer of a State. The chief executive officer shall distribute the transferred amounts to urbanized areas under this section.

(5) Capital and operating assistance limitations applicable to the original apportionment apply to amounts transferred under this subsection.

(h) CHANGES OF APPORTIONMENTS.—If sufficient amounts are available, the Secretary of Transportation shall change apportionments under

[1] See References in Text note below.

this section between the Mass Transit Account of the Highway Trust Fund and the general fund to ensure that each recipient receives from the general fund at least as much operating assistance made available each fiscal year under this section as the recipient is eligible to receive.

(i) PERIOD OF AVAILABILITY TO RECIPIENTS.—An amount apportioned under this section may be obligated by the recipient for 3 years after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 3-year period, an amount that is not obligated at the end of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

(j) APPLICATION OF OTHER SECTIONS.—Sections 5302, 5318, 5323(a)(1), (d), and (f), 5332, and 5333 of this title apply to this section and to a grant made under this section. Except as provided in this section, no other provision of this chapter applies to this section or to a grant made under this section.

(k) CERTAIN URBANIZED AREAS GRANDFATHERED.—An area designated an urbanized area under the 1980 census and not designated an urbanized area under the 1990 census for the fiscal year ending September 30, 1993, is eligible to receive—

(1) 50 percent of the amount the area would have received if the area had been an urbanized area as defined by section 5302(a)(13) of this title; and

(2) an amount equal to 50 percent of the amount that the State in which the area is located would have received if the area had been an area other than an urbanized area.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 840; Pub. L. 104–287, §5(19), Oct. 11, 1996, 110 Stat. 3390.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5336(a)(1)	49 App.:1607a(a)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(a); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2141; Apr. 2, 1987, Pub. L. 100–17, §327(b), 101 Stat. 238; Dec. 18, 1991, Pub. L. 102–240, §3013(a), 105 Stat. 2106.
	49 App.:1607a(d).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(b)(1)–(3), (c)–(e)(1), (m)(2); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2141, 2147; Apr. 2, 1987, Pub. L. 100–17, §327(b), 101 Stat. 238.
5336(a)(2)	49 App.:1607a(a)(2).	
5336(b)(1)	49 App.:1607a(b)(2) (last sentence).	
5336(b)(2)(A)	49 App.:1607a(b)(1), (2) (1st sentence).	
5336(b)(2)(B)	49 App.:1607a(b)(3) (1st sentence).	
5336(b)(2)(C)	49 App.:1607a(b)(2) (2d sentence), (3) (last sentence).	
5336(b)(2)(D)	49 App.:1607a(b)(2) (3d sentence).	
5336(b)(2)(E)	49 App.:1607a(b)(4).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(b)(4); added Dec. 18, 1991, Pub. L. 102–240, §3013(b), 105 Stat. 2106.
5336(c)(1)	49 App.:1607a(c)(1), (2), (d) (last sentence).	
5336(c)(2)	49 App.:1607a(c)(3).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5336(d)(1)	49 App.:1607a (k)(2)(A).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(k)(2)(A); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2145; Apr. 2, 1987, Pub. L. 100–17, §§312(c)(1), (2), 327(b), 101 Stat. 228, 238.
5336(d)(2)	49 App.:1607a (k)(2)(B).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(k)(2)(B); added Apr. 2, 1987, Pub. L. 100–17, §312(c)(3), 101 Stat. 228; Dec. 18, 1991, Pub. L. 102–240, §3013(i), 105 Stat. 2107.
	49 App.:1607a (k)(2)(C).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(k)(2)(C); added Apr. 2, 1987, Pub. L. 100–17, §312(c)(3), 101 Stat. 228.
5336(e)	49 App.:1607a(q).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(q); added Apr. 2, 1987, Pub. L. 100–17, §312(e), 101 Stat. 229.
5336(f)	49 App.:1607a(m)(2).	
5336(g)	49 App.:1607a(n).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(n); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2147; Apr. 2, 1987, Pub. L. 100–17, §§312(d), 327(b), 101 Stat. 229, 238.
5336(h)	49 App.:1607a(t).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(t); added Dec. 18, 1991, Pub. L. 102–240, §3013(k), 105 Stat. 2108.
5336(i)	49 App.:1607a(*o*).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(*o*); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2147; Apr. 2, 1987, Pub. L. 100–17, §§311, 327(b), 101 Stat. 228, 238.
5336(j)	49 App.:1607a(e)(1).	
5336(k)	49 App.:1607a(s).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(s); added Dec. 18, 1991, Pub. L. 102–240, §3013(j), 105 Stat. 2108.

In this section, the word ''apportioned'' is substituted for ''available'', ''shall be available for expenditure'', ''made available'', and ''made available for expenditure'' for clarity and consistency in this chapter.

In subsection (a)(1), before subclause (A), the words ''the sum of'' are omitted as surplus.

In subsection (b)(2)(D), the word ''provided'' is omitted as surplus. The words ''is deemed'' are substituted for ''as if . . . were'' for consistency in the revised title and with other titles of the United States Code. The words ''directly or indirectly'' are omitted as surplus.

In subsection (c)(1)(B), before clause (i), the words ''of at least 200,000'' are added for clarity.

In subsection (d)(1)(D), the words ''Notwithstanding the preceding sentence'' and ''each fiscal year'' are omitted as surplus.

In subsection (d)(2), the words ''Beginning on October 1, 1991'' are omitted as executed. The words ''paragraph (1) of this subsection'' are substituted for ''under this section that may be used for operating assistance by urbanized areas'' to eliminate unnecessary words. The words ''(if any)'' are omitted as surplus. The words ''Secretary of Labor'' are substituted for ''Department of Labor'' because of 29:551. The text of 49 App.:1607a(k)(2)(B) (2d sentence) is omitted as executed. The text of 49 App.:1607a(k)(2)(B) (last sentence) is omitted as surplus.

In subsection (e)(1), the words ''under section 5338(f) of this title'' are added for clarity. The words ''in accordance with the provisions of this section'' are omitted as surplus.

In subsection (e)(2), the words ''established by the preceding sentence'' are omitted as surplus.

In subsection (g)(1) and (2), the word ''part'' is substituted for ''amount'' for clarity.

In subsection (g)(4), the words ''including areas of 200,000 or more population'' are omitted as surplus.

In subsection (h), the words ''in each fiscal year beginning after September 30, 1991'' are omitted as obsolete.

In subsection (i), the words ''the close of'' are omitted as surplus.

In subsection (j), the references to sections 5302(a)(8) and 5318 are added for clarity. The source provisions of sections 5302(a)(8) and 5318, enacted by section 317 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17, 101 Stat. 233), were not intended to come under the exclusion stated in 49 App.:1607a(e)(1). The words ''condition, limitation, or other'' and ''for programs of projects'' are omitted as surplus.

In subsection (k), the text of 49 App.:1607a(s)(1) is omitted as obsolete.

PUB. L. 104–287

This amends 49:5336(b)(2) to clarify the restatement of 49 App.:1607a(b) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 840).

REFERENCES IN TEXT

Section 5(a)(1)(A), (2)(A), and (3)(A) of the Urban Mass Transportation Act of 1964, referred to in subsec. (d)(1)(A)–(C), is section 5(a)(1)(A), (2)(A), and (3)(A) of Pub. L. 88–365, redesignated the ''Federal Transit Act'', which was classified to section 1604(a)(1)(A), (2)(A), and (3)(A) of former Title 49, Transportation, prior to repeal by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379.

AMENDMENTS

1996—Subsec. (b)(2)(A), (B). Pub. L. 104–287, § 5(19)(A), inserted at end ''An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.''

Subsec. (b)(2)(C) to (E). Pub. L. 104–287, § 5(19)(B), (C), redesignated subpars. (D) and (E) as (C) and (D), respectively, and struck out former subpar. (C) which read as follows: ''An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subsection.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5305, 5307, 5308, 5310, 5330, 5337 of this title; title 23 section 134.

§ 5337. Apportionment of appropriations for fixed guideway modernization

(a) PERCENTAGE DISTRIBUTION.—The Secretary of Transportation shall apportion amounts made available for fixed guideway modernization under section 5309 of this title for each of the fiscal years ending September 30, 1993–1997, and for the period of October 1, 1997, through March 31, 1998, as follows:

(1) The first $455,000,000 shall be apportioned in the following urbanized areas as follows:

(A) Baltimore, 1.84 percent.

(B) Boston, 8.56 percent.

(C) Chicago/Northwestern Indiana, 17.18 percent.

(D) Cleveland, 2.09 percent.

(E) New York, 35.57 percent.

(F) Northeastern New Jersey, 9.04 percent.

(G) Philadelphia/Southern New Jersey, 12.41 percent.

(H) San Francisco, 7.21 percent.

(I) Southwestern Connecticut, 6.10 percent.

(2) The next $42,700,000 shall be apportioned in the following urbanized areas as follows:

(A) New York, 33.2341 percent.

(B) Northeastern New Jersey, 22.1842 percent.

(C) Philadelphia/Southern New Jersey, 5.7594 percent.

(D) San Francisco, 2.7730 percent.

(E) Pittsburgh, 31.9964 percent.

(F) New Orleans, 4.0529 percent.

(3) The next $70,000,000 shall be apportioned as follows:

(A) 50 percent in the urbanized areas listed in paragraphs (1) and (2) as provided in section 5336(b)(2)(A) of this title.

(B) 50 percent in other urbanized areas eligible for assistance under section 5336(b)(2)(A) of this title if the areas contain fixed guideway systems placed in revenue service at least 7 years before the fiscal year in which amounts are made available and in any other urbanized area if, before the first day of the fiscal year, the area satisfies the Secretary that the area has modernization needs that cannot be met adequately with amounts received as provided in section 5336(b)(2)(A).

(4) Remaining amounts shall be apportioned in each urbanized area eligible for assistance under paragraphs (1)–(3) of this subsection as provided in section 5336(b)(2)(A) of this title.

(b) TOTAL AMOUNTS NOT AVAILABLE.—In a fiscal year in which the total amounts authorized under subsection (a)(1) and (2) of this section are not available, the Secretary shall reduce on a proportionate basis the apportionments of all urbanized areas eligible under subsection (a)(1) or (2) to adjust for the amount not available.

(c) NEW JERSEY TRANSIT CORPORATION.—Rail modernization amounts allocated to the New Jersey Transit Corporation under this section may be spent in any urbanized area in which the New Jersey Transit Corporation operates rail transportation, regardless of which urbanized area generates the financing.

(d) AVAILABILITY OF AMOUNTS.—An amount apportioned under this section—

(1) remains available for 3 years after the fiscal year in which the amount is apportioned; and

(2) that is unobligated at the end of the 3-year period shall be reapportioned for the next fiscal year among urbanized areas eligible under subsection (a)(1)–(3) of this section using the apportionment formula of this section.

(e) SPECIAL RULE FOR OCTOBER 1, 1997, THROUGH MARCH 31, 1998.—The Secretary shall determine the amount that each urbanized area is to be apportioned for fixed guideway modernization under this section on a pro rata basis to reflect the partial fiscal year 1998 funding made available by section 5338(b)(1)(F).

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 844; Pub. L. 103–429, § 6(14), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 102–240, title III, § 3049(b), as added Pub. L. 105–130, § 8, Dec. 1, 1997, 111 Stat. 2559.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5337(a)	49 App.:1602(h) (1)–(4).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(h)(1)–(6); added Aug. 22, 1974, Pub. L. 93–503, §110, 88 Stat. 1573; Nov. 6, 1978, Pub. L. 95–599, §302(d), 92 Stat. 2737; restated Dec. 18, 1991, Pub. L. 102–240, §3008, 105 Stat. 2091.
5337(b)	49 App.:1602(h)(5).	
5337(c)	49 App.:1602(h)(6).	
5337(d)	49 App.:1602(h)(7).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(h)(7); added Oct. 6, 1992, Pub. L. 102–388, §502(c), 106 Stat. 1566.

In subsection (a), the words ''for expenditure'' are omitted for consistency in this chapter. Before clause (1), the reference to fiscal year 1992 is omitted as obsolete.

In subsection (c), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The word ''paragraph'' in the source provision is translated as it were ''subsection'' to reflect the apparent intent of Congress.

In subsection (d)(1), the words ''for obligation'', ''a period of'', and ''the close of'' are omitted as surplus.

PUB. L. 103–429

This amends 49:5337(a)(4) to correct an erroneous cross-reference.

AMENDMENTS

1997—Subsec. (a). Pub. L. 102–240, §3049(b)(1), as added by Pub. L. 105–130, inserted ''and for the period of October 1, 1997, through March 31, 1998,'' after ''1997,'' in introductory provisions.

Subsec. (e). Pub. L. 102–240, §3049(b)(2), as added by Pub. L. 105–130, added subsec. (e).

1994—Subsec. (a)(4). Pub. L. 103–429 substituted ''section 5336(b)(2)(A) of this title'' for ''section 5336(B)(2)(A)''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5333 of this title.

§ 5338. Authorizations

(a) FOR SECTIONS 5303–5306, 5308, 5310, 5311, 5313, 5314, 5317, 5320, 5327, AND 5334(a) AND (c) AND SECTION 103(e)(4) OF TITLE 23.—(1) Not more than the following amounts are available from the Mass Transit Account of the Highway Trust Fund for the Secretary of Transportation to carry out sections 5303–5306, 5308, 5310, 5311, 5313, 5314, 5317, 5320, 5327, and 5334(a) and (c) of this title:

(A) $1,150,000,000 for the fiscal year ending September 30, 1993.

(B) $1,190,000,000 for the fiscal year ending September 30, 1994.

(C) $1,150,000,000 for the fiscal year ending September 30, 1995.

(D) $1,110,000,000 for the fiscal year ending September 30, 1996.

(E) $1,920,000,000 for the fiscal year ending September 30, 1997.

(F) $1,328,400,000 for the period of October 1, 1997, through March 31, 1998.

(2) In addition to amounts made available under paragraph (1) of this subsection, not more than the following amounts may be appropriated to the Secretary to carry out sections 5303–5306, 5308, 5310, 5311, 5313, 5314, 5317, 5320, 5327, and 5334(a) and (c) of this title and substitute transit projects under section 103(e)(4) of title 23:

(A) $2,055,000,000 for the fiscal year ending September 30, 1993.

(B) $1,885,000,000 for the fiscal year ending September 30, 1994.

(C) $1,925,000,000 for the fiscal year ending September 30, 1995.

(D) $1,965,000,000 for the fiscal year ending September 30, 1996.

(E) $2,430,000,000 for the fiscal year ending September 30, 1997.

(F) $369,000,000 for the period of October 1, 1997, through March 31, 1998.

(b) SECTION 5309.—(1) Not more than the following amounts are available from the Account for the Secretary to carry out section 5309 of this title:

(A) $1,725,000,000 for the fiscal year ending September 30, 1993.

(B) $1,785,000,000 for the fiscal year ending September 30, 1994.

(C) $1,725,000,000 for the fiscal year ending September 30, 1995.

(D) $1,665,000,000 for the fiscal year ending September 30, 1996.

(E) $2,880,000,000 for the fiscal year ending September 30, 1997.

(F) $1,131,600,000 for the period of October 1, 1997, through March 31, 1998.

(2) In addition to amounts made available under paragraph (1) of this subsection, not more than the following amounts may be appropriated to the Secretary to carry out section 5309 of this title:

(A) $305,000,000 for the fiscal year ending September 30, 1993.

(B) $265,000,000 for the fiscal year ending September 30, 1994.

(C) $325,000,000 for the fiscal year ending September 30, 1995.

(D) $385,000,000 for the fiscal year ending September 30, 1996.

(E) $20,000,000 for the fiscal year ending September 30, 1997.

(c) SECTION 5315.—The Secretary shall make available in equal amounts from amounts provided under subsections (f) and (g) of this section not more than $3,000,000 for each of the fiscal years ending September 30, 1993–1997, and not more than $1,500,000 for the period of October 1, 1997, through March 31, 1998, to carry out section 5315 of this title.

(d) SECTION 5316.—Not more than the following amounts may be appropriated to the Secretary from the Fund (except the Account) for each of the fiscal years ending September 30, 1993–1997:

(1) $250,000 to carry out section 5316(a) of this title.

(2) $3,000,000 to carry out section 5316(b) of this title.

(3) $1,000,000 to carry out section 5316(c) of this title.

(4) $1,000,000 to carry out section 5316(d) of this title.

(5) $1,000,000 to carry out section 5316(e) of this title.

(e) SECTION 5317.—(1) Not more than $6,000,000 is available from the Fund (except the Account) for the Secretary for each of the fiscal years ending September 30, 1993–1997, and not more than $3,000,000 is available from the Fund (except the Account) for the Secretary for the period of October 1, 1997, through March 31, 1998, to carry out section 5317 of this title.

(2) Not more than the following amounts may be appropriated to the Secretary from the Fund (except the Account) for making grants under section 5317(b)(5)(B) of this title:

(A) $3,000,000 for the fiscal year ending September 30, 1993.

(B) $2,500,000 for the fiscal year ending September 30, 1994.

(f) SECTION 5307.—Amounts remaining available each fiscal year under subsection (a)(1) of this section, after allocation under subsections (g)–(i) and (j)(4) of this section, are available under section 5307 of this title.

(g) PLANNING, PROGRAMMING, AND RESEARCH.—Before apportioning in each fiscal year amounts made available or appropriated under subsection (a) of this section, an amount equal to 3 percent of amounts made available or appropriated under subsections (a) and (b) of this section is available as follows:

(1) 45 percent for metropolitan planning activities under section 5303(g) of this title.

(2) 5 percent to carry out section 5311(b)(2) of this title.

(3) 20 percent to carry out State programs under section 5313 of this title.

(4) 30 percent to carry out the national program under section 5314 of this title.

(h) OTHER SET-ASIDES.—Before apportioning in each fiscal year amounts made available or appropriated under subsection (a) of this section, of amounts made available or appropriated under subsections (a) and (b) of this section—

(1) not more than .96 percent is available for administrative expenses to carry out section 5334(a) and (c)–(f) of this title;

(2) not more than 1.34 percent is available for transportation services to elderly individuals and individuals with disabilities under the formula under section 5310(a) of this title; and

(3) $7,000,000 is available for section 5317 for each of the fiscal years ending September 30, 1993–1997 and $3,000,000 is available for section 5317 for the period of October 1, 1997, through March 31, 1998.

(i) COMPLETING INTERSTATE TRANSFER TRANSIT PROJECTS.—Of the amounts remaining available each year under subsections (a) and (b) of this section, after allocation under subsections (g) and (h) of this section, not more than $164,843,000 for the fiscal year ending September 30, 1993, is available for substitute transit projects under section 103(e)(4) of title 23.

(j) LIMITATIONS.—Of the amounts available—

(1) under subsection (a)(2) of this section, 3.5 percent is available to finance programs and activities, including administrative costs, under section 5310 of this title;

(2) 1.5 percent of the amounts available to finance research, development, and demonstration projects under section 5312(a) of this title is available to increase the information and technology available to provide improved mass transportation service and facilities planned and designed to meet the special needs of elderly individuals and individuals with disabilities;

(3) not more than 12.5 percent is available for grants to any one State under section 5312(c)(2) of this title;

(4) 5.5 percent of the amount remaining available each year under subsection (a)(1) of this section, after allocation under subsections (g)–(i) of this section, is available under the formula under section 5311 of this title; and

(5) under section 5309(m)(1)(C) of this title—

(A) $2,000,000 is available for the fiscal year ending September 30, 1993;

(B) the lesser of $2,000,000 or an amount the Secretary determines is necessary for each fiscal year is available for each of the fiscal years ending September 30, 1994–1996;

(C) the lesser of $3,000,000 or an amount the Secretary determines is necessary is available for the fiscal year ending September 30, 1997; and

(D) the lesser of $1,500,000 or an amount that the Secretary determines is necessary is available to carry out section 5318 for the period of October 1, 1997, through March 31, 1998.

(k) GRANTS AS CONTRACTUAL OBLIGATIONS.—(1) A grant or contract approved by the Secretary, that is financed with amounts made available under subsection (a)(1), (b)(1), (c), (e), or (m) of this section, is a contractual obligation of the United States Government to pay the Government's share of the cost of the project.

(2) A grant or contract, approved by the Secretary, that is financed with amounts made available under subsection (a)(2) or (b)(2) of this section, is a contractual obligation of the Government to pay the Government's share of the cost of the project only to the extent amounts are provided in advance in an appropriations law.

(*l*) EARLY APPROPRIATIONS AND AVAILABILITY OF AMOUNTS.—(1) Amounts appropriated under subsection (a)(2) of this section to carry out section 5311 of this title may be appropriated in the fiscal year before the fiscal year in which the appropriation is available for obligation.

(2) Amounts made available or appropriated under subsections (a), (b), (g), (h)(1) and (2), and (j)(4) of this section remain available until expended.

(3) An amount apportioned under section 5308 of this title—

(A) remains available for 3 years after the fiscal year in which the amount is apportioned; and

(B) that is unobligated at the end of the 3-year period shall be added to the amount available for apportionment for the next fiscal year not later than 30 days after the end of the 3-year period.

(m) SECTION 5316 FOR THE PERIOD OF OCTOBER 1, 1997, THROUGH MARCH 31, 1998.—Not more than the following amounts may be appropriated to the Secretary from the Fund (except the Ac-

count) for the period of October 1, 1997, through March 31, 1998:

(1) $125,000 to carry out section 5316(a).
(2) $1,500,000 to carry out section 5316(b).
(3) $500,000 to carry out section 5316(c).
(4) $500,000 to carry out section 5316(d).
(5) $500,000 to carry out section 5316(e).

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 845; Pub. L. 104–287, § 5(20), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 102–240, § 3049(c), as added Pub. L. 105–130, § 8, Dec. 1, 1997, 111 Stat. 2559.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5338(a)	49 App.:1617(a) (less availability).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §21; added Jan. 6, 1983, Pub. L. 97–424, § 302(a), 96 Stat. 2140; Apr. 2, 1987, Pub. L. 100–17, § 328, 101 Stat. 238; restated Dec. 18, 1991, Pub. L. 102–240, § 3025, 105 Stat. 2112; Oct. 6, 1992, Pub. L. 102–388, § 502(m)–(q), 106 Stat. 1567.
5338(b)	49 App.:1617(b) (less availability).	
5338(c)	49 App.:1625(d) (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §29(d); added Dec. 18, 1991, Pub. L. 102–240, § 6022, 105 Stat. 2185.
5338(d)	49 App.:1607c(c)(6).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §11(c)(6); added Dec. 18, 1991, Pub. L. 102–240, § 6024, 105 Stat. 2189; Sept. 23, 1992, Pub. L. 102–368, § 801, 106 Stat. 1131.
5338(e)(1)	49 App.:1607c(b)(8)(B)(iii), (13) (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §11(b)(8)(B)(iii), (10)(C), (13); added Dec. 18, 1991, Pub. L. 102–240, § 6023, 105 Stat. 2186, 2187, 2188.
5338(e)(2)	49 App.:1607c(b)(1)(C).	
5338(f)	49 App.:1617(g).	
5338(g)–(i) ..	49 App.:1617(c) (less availability), (d) (less availability), (e).	
5338(j)(1)	49 App.:1612(b) (last sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §16(b) (last sentence); added Oct. 15, 1970, Pub. L. 91–453, § 8, 84 Stat. 968; Aug. 13, 1973, Pub. L. 93–87, § 301(g), 87 Stat. 296; restated Nov. 6, 1978, Pub. L. 95–599, § 311(a), 92 Stat. 2748; Jan. 6, 1983, Pub. L. 97–424, § 317(a), 96 Stat. 2153.
5338(j)(2)	49 App.:1612(d).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §16(d); added Oct. 15, 1970, Pub. L. 91–453, § 8, 84 Stat. 968; Dec. 18, 1991, Pub. L. 102–240, § 3021(5), 105 Stat. 2110.
5338(j)(3)	49 App.:1603(c) (last sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §4(c) (last sentence); added Nov. 6, 1978, Pub. L. 95–599, § 303(e), 92 Stat. 2739; Dec. 18, 1991, Pub. L. 102–240, § 3006(h)(1), 105 Stat. 2090.
5338(j)(4)	49 App.:1617(f) (less availability).	
5338(j)(5)	49 App.:1602(m) (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(m) (1st sentence); added Dec. 18, 1991, Pub. L. 102–240, § 3009, 105 Stat. 2093.
5338(k)	49 App.:1607c(b)(13) (last sentence). 49 App.:1617(b)(4). 49 App.:1625(d) (last sentence).	
5338(*l*)(1)	49 App.:1614(a) (last sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §18(a) (last sentence); added Nov. 6, 1978, Pub. L. 95–599, § 313, 92 Stat. 2749.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5338(*l*)(2)	49 App.:1617(a)–(d), (f) (as (a)–(d), (f) relate to availability).	
5338(*l*)(3)	49 App.:1607a–2(c).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 9B(c); added Apr. 2, 1987, Pub. L. 100–17, § 313, 101 Stat. 229.

In this section, references to fiscal year 1992 are omitted as obsolete.

In subsections (a)(1) and (b)(1), before each clause (A), the word ''only'' is omitted as surplus.

In subsection (a)(1), before clause (A), the words ''for the Secretary of Transportation'' are added or clarity and consistency.

In subsections (a)(2) and (b)(2), before each clause (A), and (d), before clause (1), the words ''to the Secretary'' are added for clarity and consistency.

In subsections (b)(1), before clause (A), and (e)(1), the words ''for the Secretary'' are added for clarity and consistency.

In subsection (d), the text of 49 App.:1607c(c)(6) (last sentence) is omitted as obsolete.

In subsection (e)(1), the word ''section'' in the source provision is translated as if it were ''subsection'' to reflect the apparent intent of Congress.

In subsection (h)(3), the words ''relating to university transportation centers'' are omitted as surplus.

In subsection (j)(2), the words ''set aside and'' and ''exclusively'' are omitted as surplus. The word ''mass'' is added for consistency in this chapter.

In subsection (k)(1), the words ''Notwithstanding any other provision of law'' in 49 App.:1607c(b)(13) (last sentence) and 1625(d) (last sentence) are omitted as surplus. The words ''financed with'' are added for clarity.

In subsection (k)(2), the words ''that is financed with'' are added for clarity.

In subsection (*l*)(3)(A), the words ''for obligation by the recipient'', ''a period of'', and ''the close of'' are omitted as surplus.

PUB. L. 104–287

This amends 49:5338(g)(2) to correct an erroneous cross-reference.

AMENDMENTS

1997—Subsec. (a)(1)(F). Pub. L. 102–240, § 3049(c)(1)(A), as added by Pub. L. 105–130, added subpar. (F).

Subsec. (a)(2)(F). Pub. L. 102–240, § 3049(c)(1)(B), as added by Pub. L. 105–130, added subpar. (F).

Subsec. (b)(1)(F). Pub. L. 102–240, § 3049(c)(2), as added by Pub. L. 105–130, added subpar. (F).

Subsec. (c). Pub. L. 102–240, § 3049(c)(3), as added by Pub. L. 105–130, inserted ''and not more than $1,500,000 for the period of October 1, 1997, through March 31, 1998,'' after ''1997,''.

Subsec. (e). Pub. L. 102–240, § 3049(c)(4), as added by Pub. L. 105–130, inserted ''and not more than $3,000,000 is available from the Fund (except the Account) for the Secretary for the period of October 1, 1997, through March 31, 1998,'' after ''1997,''.

Subsec. (h)(3). Pub. L. 102–240, § 3049(c)(5), as added by Pub. L. 105–130, inserted before period at end ''and $3,000,000 is available for section 5317 for the period of October 1, 1997, through March 31, 1998''.

Subsec. (j)(5)(D). Pub. L. 102–240, § 3049(c)(6), as added by Pub. L. 105–130, added subpar. (D).

Subsec. (k). Pub. L. 102–240, § 3049(c)(7), as added by Pub. L. 105–130, substituted ''(e), or (m) of this section'' for ''or (e) of this section''.

Subsec. (m). Pub. L. 102–240, § 3049(c)(8), as added by Pub. L. 105–130, added subsec. (m).

1996—Subsec. (g)(2). Pub. L. 104–287 substituted ''section 5311(b)(2)'' for ''section 5308(b)(2)''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

PROGRAMS OF FEDERAL TRANSIT ADMINISTRATION; LIMITATION ON OBLIGATIONS

Pub. L. 105–66, title III, § 311, Oct. 27, 1997, 111 Stat. 1443, provided that: ''The limitations on obligations for the programs of the Federal Transit Administration shall not apply to any authority under 49 U.S.C. 5338, previously made available for obligation, or to any other authority previously made available for obligation under the discretionary grants program.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104–205, title III, § 311, Sept. 30, 1996, 110 Stat. 2971.

Pub. L. 104–50, title III, § 312, Nov. 15, 1995, 109 Stat. 455.

Pub. L. 103–331, title III, § 313, Sept. 30, 1994, 108 Stat. 2490.

Pub. L. 103–122, title III, § 313, Oct. 27, 1993, 107 Stat. 1221.

Pub. L. 102–388, title III, § 313, Oct. 6, 1992, 106 Stat. 1546.

Pub. L. 102–143, title III, § 313, Oct. 28, 1991, 105 Stat. 941, as amended by Pub. L. 102–240, title III, §§ 3003(b), 3004(b), Dec. 18, 1991, 105 Stat. 2088.

Pub. L. 101–516, title III, § 313, Nov. 5, 1990, 104 Stat. 2181.

Pub. L. 101–164, title III, § 314, Nov. 21, 1989, 103 Stat. 1094.

Pub. L. 100–457, title III, § 314, Sept. 30, 1988, 102 Stat. 2148.

Pub. L. 100–202, § 101(*l*) [title III, § 314], Dec. 22, 1987, 101 Stat. 1329–358, 1329–379.

Pub. L. 99–500, § 101(*l*) [H.R. 5205, title III, § 317], Oct. 18, 1986, 100 Stat. 1783–308, and Pub. L. 99–591, § 101(*l*) [H.R. 5205, title III, § 317], Oct. 30, 1986, 100 Stat. 3341–308.

Pub. L. 99–190, § 101(e) [title III, § 322], Dec. 19, 1985, 99 Stat. 1267, 1287.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5303, 5308, 5309, 5310, 5311, 5313, 5314, 5316, 5317, 5318, 5321, 5333, 5336, 5337 of this title; title 26 section 9503.

CHAPTER 55—INTERMODAL TRANSPORTATION

SUBCHAPTER I—GENERAL

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SUBCHAPTER I—GENERAL

§ 5501. National Intermodal Transportation System policy

(a) GENERAL.—It is the policy of the United States Government to develop a National Intermodal Transportation System that is economically efficient and environmentally sound, provides the foundation for the United States to compete in the global economy, and will move individuals and property in an energy efficient way.

(b) SYSTEM CHARACTERISTICS.—(1) The National Intermodal Transportation System shall consist of all forms of transportation in a unified, interconnected manner, including the transportation systems of the future, to reduce energy consumption and air pollution while promoting economic development and supporting the United States' preeminent position in international commerce.

(2) The National Intermodal Transportation System shall include a National Highway System consisting of the Dwight D. Eisenhower System of Interstate and Defense Highways and those principal arterial roads that are essential for interstate and regional commerce and travel, national defense, intermodal transfer facilities, and international commerce and border crossings.

(3) The National Intermodal Transportation System shall include significant improvements in public transportation necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly individuals, individuals with disabilities, and economically disadvantaged individuals in urban and rural areas of the United States.

(4) The National Intermodal Transportation System shall provide improved access to ports and airports, the Nation's link to commerce.

(5) The National Intermodal Transportation System shall give special emphasis to the contributions of the transportation sectors to increased productivity growth. Social benefits must be considered with particular attention to the external benefits of reduced air pollution, reduced traffic congestion, and other aspects of the quality of life in the United States.

(6) The National Intermodal Transportation System must be operated and maintained with insistent attention to the concepts of innovation, competition, energy efficiency, productivity, growth, and accountability. Practices that resulted in the lengthy and overly costly construction of the Dwight D. Eisenhower System of Interstate and Defense Highways must be confronted and stopped.

(7) The National Intermodal Transportation System shall be adapted to ''intelligent vehicles'', ''magnetic levitation systems'', and other new technologies, wherever feasible and economical, with benefit cost estimates given special emphasis on safety considerations and techniques for cost allocation.

(8) When appropriate, the National Intermodal Transportation System will be financed, as regards Government apportionments and reimbursements, by the Highway Trust Fund. Financial assistance will be provided to State and local governments and their instrumentalities to help carry out national goals related to mobility for elderly individuals, individuals with disabilities, and economically disadvantaged individuals.

(9) The National Intermodal Transportation System must be the centerpiece of a national in-

vestment commitment to create the new wealth of the United States for the 21st century.

(c) DISTRIBUTION AND POSTING.—The Secretary of Transportation shall distribute copies of the policy in subsections (a) and (b) of this section to each employee of the Department of Transportation and ensure that the policy is posted in all offices of the Department.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 848.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5501	49:101 (note).	Dec. 18, 1991, Pub. L. 102–240, § 2, 105 Stat. 1914.

In this section, the words ''Dwight D. Eisenhower System of Interstate and Defense Highways'' are substituted for ''National System of Interstate and Defense Highways'' because of the Act of October 15, 1990 (Public Law 101–427, 104 Stat. 927).

§ 5502. Intermodal Transportation Advisory Board

(a) ORGANIZATION.—The Intermodal Transportation Advisory Board is a board in the Office of the Secretary of Transportation.

(b) MEMBERSHIP.—The Board consists of the Secretary, who serves as chairman, and the Administrator, or the Administrator's designee, of—

(1) the Federal Highway Administration;
(2) the Federal Aviation Administration;
(3) the Maritime Administration;
(4) the Federal Railroad Administration; and
(5) the Federal Transit Administration.

(c) DUTIES AND POWERS.—The Board shall provide recommendations for carrying out the duties of the Secretary described in section 301(3) of this title.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 849.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5502	49:301 (note).	Dec. 18, 1991, Pub. L. 102–240, § 5002(b), 105 Stat. 2158.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by Congress, its duration is otherwise provided by law. See sections 3(2), and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 5503. Office of Intermodalism

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish in the Office of the Secretary an Office of Intermodalism.

(b) DIRECTOR.—The head of the Office is a Director who shall be appointed by the Secretary.

(c) DUTIES AND POWERS.—The Director shall carry out the duties of the Secretary described in section 301(3) of this title.

(d) INTERMODAL TRANSPORTATION DATA BASE.—(1) The Director shall develop, maintain, and disseminate intermodal transportation data through the Bureau of Transportation Statistics. The Director shall coordinate the collection of data for the data base with the States and metropolitan planning organizations. The data base shall include information on—

(A) the volume of property and number of individuals carried in intermodal transportation by relevant classification;

(B) patterns of movement of property and individuals in intermodal transportation by relevant classification by origin and destination; and

(C) public and private investment in intermodal transportation facilities and services.

(2) The Director shall make information from the data base available to the public.

(e) RESEARCH.—The Director shall—

(1) coordinate United States Government research on intermodal transportation as provided in the plan developed under section 6009(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2177); and

(2) carry out additional research needs identified by the Director.

(f) TECHNICAL ASSISTANCE.—The Director shall provide technical assistance to States and to metropolitan planning organizations for urban areas having a population of at least 1,000,000 in collecting data related to intermodal transportation to facilitate the collection of the data by States and metropolitan planning organizations.

(g) ADMINISTRATIVE AND CLERICAL SUPPORT.—The Director shall provide administrative and clerical support to the Intermodal Transportation Advisory Board.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 850.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5503	49:301 (note).	Dec. 18, 1991, Pub. L. 102–240, § 5002(c), 105 Stat. 2158.

REFERENCES IN TEXT

Section 6009(b) of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (e)(1), is section 6009(b) of Pub. L. 102–240, which is set out as a note under section 307 of Title 23, Highways.

§ 5504. Model intermodal transportation plans

(a) GRANTS.—The Secretary of Transportation shall make grants to States to develop model State intermodal transportation plans that are consistent with the policy set forth in section 302(e) of this title. The model plans shall include systems for collecting data related to intermodal transportation.

(b) DISTRIBUTION.—The Secretary shall award grants to States under this section that represent a variety of geographic regions and transportation needs, patterns, and modes.

(c) PLAN SUBMISSION.—As a condition to a State receiving a grant under this section, the Secretary shall require that the State provide assurances that the State will submit to the Secretary a State intermodal transportation plan not later than 18 months after the date of receipt of the grant.

(d) GRANT AMOUNTS.—The Secretary shall reserve, from amounts deducted under section 104(a) of title 23, $3,000,000 to make grants under this section. The total amount that a State may receive in grants under this section may not be more than $500,000.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 850.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5504	49:301 (note).	Dec. 18, 1991, Pub. L. 102–240, § 5003, 105 Stat. 2159.

SUBCHAPTER II—TERMINALS

§ 5561. Definition

In this chapter, ''civic and cultural activities'' includes libraries, musical and dramatic presentations, art exhibits, adult education programs, public meeting places, and other facilities for carrying on an activity any part of which is supported under a law of the United States.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 851.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5561	49 App.:1653(i)(10).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 4(i)(10); added Oct. 28, 1974, Pub. L. 93–496, §§ 6, 15, 88 Stat. 1530, 1533; Feb. 5, 1976, Pub. L. 94–210, § 707(3), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, § 206(a), 94 Stat. 412.

In this chapter, both sections 6 and 15 of the Amtrak Improvement Act (Public Law 93–496, 88 Stat. 1528, 1533) are listed as source credits for the addition of section 4(i) to the Department of Transportation Act (Public Law 89–670, 80 Stat. 931). This is done to conform to the probable intent of Congress as evidenced by the directory language of section 15 of the Act of October 28, 1974.

In this section, the words ''for community groups, convention visitors and others'' are omitted as unnecessary.

§ 5562. Assistance projects

(a) REQUIREMENTS TO PROVIDE ASSISTANCE.—The Secretary of Transportation shall provide financial, technical, and advisory assistance under this chapter to—

(1) promote, on a feasibility demonstration basis, the conversion of at least 3 rail passenger terminals into intermodal transportation terminals;

(2) preserve rail passenger terminals that reasonably are likely to be converted or maintained pending preparation of plans for their reuse;

(3) acquire and use space in suitable buildings of historic or architectural significance but only if use of the space is feasible and prudent when compared to available alternatives; and

(4) encourage State and local governments, local and regional transportation authorities, common carriers, philanthropic organizations, and other responsible persons to develop plans to convert rail passenger terminals into intermodal transportation terminals and civic and cultural activity centers.

(b) EFFECT ON ELIGIBILITY.—This chapter does not affect the eligibility of any rail passenger terminal for preservation or reuse assistance under another program or law.

(c) ACQUIRING SPACE.—The Secretary may acquire space under subsection (a)(3) of this section only after consulting with the Advisory Council on Historic Preservation and the Chairman of the National Endowment for the Arts.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 851.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5562(a)	49 App.:1653(i)(1).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 4(i)(1); added Oct. 28, 1974, Pub. L. 93–496, §§ 6, 15, 88 Stat. 1528, 1533; Feb. 5, 1976, Pub. L. 94–210, § 707(1), (2), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, § 206(a), 94 Stat. 412.
5562(b)	49 App.:1653(i)(11).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 4(i)(11); added Oct. 28, 1974, Pub. L. 93–496, §§ 6, 15, 88 Stat. 1530, 1533; Feb. 5, 1976, Pub. L. 94–210, § 707(3), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, § 206(a), 94 Stat. 412.
5562(c)	49 App.:1653(i)(4).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 4(i)(4); added Feb. 5, 1976, Pub. L. 94–210, § 707(4), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, § 206(a), 94 Stat. 412.

In subsection (a)(3), the words ''but only if'' are substituted for ''unless . . . would not'' for consistency.

In subsection (a)(4), the word ''encourage'' is substituted for ''stimulating'' for clarity.

In subsection (b), the words ''This chapter does not affect'' are substituted for ''Nothing in this subsection shall be construed to invalidate'' for clarity and consistency. The words ''rail passenger terminal'' are substituted for ''station'', and the word ''law'' is substituted for ''statute'', for consistency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5563, 5564, 5565, 5568 of this title.

§ 5563. Conversion of certain rail passenger terminals

(a) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary of Transportation may provide financial assistance to convert a rail passenger terminal to an intermodal transportation terminal under section 5562(a)(1) of this title only if—

(1) the terminal can be converted to accommodate other modes of transportation the Secretary of Transportation decides are appropriate, including—

(A) motorbus transportation;

(B) mass transit (rail or rubber tire); and

(C) airline ticket offices and passenger terminals providing direct transportation to area airports;

(2) the terminal is listed on the National Register of Historic Places maintained by the Secretary of the Interior;

(3) the architectural integrity of the terminal will be preserved;

(4) to the extent practicable, the use of the terminal facilities for transportation may be

combined with use of those facilities for other civic and cultural activities, especially when another activity is recommended by—

(A) the Advisory Council on Historic Preservation;

(B) the Chairman of the National Endowment for the Arts; or

(C) consultants retained under subsection (b) of this section; and

(5) the terminal and the conversion project meet other criteria prescribed by the Secretary of Transportation after consultation with the Council and Chairman.

(b) ARCHITECTURAL INTEGRITY.—The Secretary of Transportation must employ consultants on whether the architectural integrity of the rail passenger terminal will be preserved under subsection (a)(3) of this section. The Secretary may decide that the architectural integrity will be preserved only if the consultants concur. The Council and Chairman shall recommend consultants to be employed by the Secretary. The consultants also may make recommendations referred to in subsection (a)(4) of this section.

(c) GOVERNMENT'S SHARE OF COSTS.—The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of converting a rail passenger terminal into an intermodal transportation terminal.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 851.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5563(a), (b)	49 App.:1653(i)(2) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 4(i)(2); added Oct. 28, 1974, Pub. L. 93–496, §§ 6, 15, 88 Stat. 1528, 1533; May 26, 1975, Pub. L. 94–25, § 13, 89 Stat. 93; Oct. 5, 1978, Pub. L. 95–421, § 14, 92 Stat. 929.
5563(c)	49 App.:1653(i)(2) (last sentence).	

In subsection (a), before clause (1), the words ''to convert a rail passenger terminal to an intermodal transportation terminal under section 5562(a)(1) of this title'' are substituted for ''for the purpose set forth in paragraph (1)(A) of this subsection'' for clarity and because of the restatement. In clause (5), the word ''prescribed'' is substituted for ''develop and promulgate'' for consistency in the revised title and with other titles of the United States Code.

Subsection (b) is substituted for ''and such judgment is concurred in by consultants recommended by the Chairman of the National Endowment of [sic] the Arts and the Advisory Council on Historic Preservation and retained for this purpose by the Secretary'' for clarity and consistency in the revised title.

§ 5564. Interim preservation of certain rail passenger terminals

(a) GENERAL GRANT AUTHORITY.—Subject to subsection (b) of this section, the Secretary of Transportation may make a grant of financial assistance to a responsible person (including a governmental authority) to preserve a rail passenger terminal under section 5562(a)(2) of this title. To receive assistance under this section, the person must be qualified, prepared, committed, and authorized by law to maintain (and prevent the demolition, dismantling, or further deterioration of) the terminal until plans for its reuse are prepared.

(b) GRANT REQUIREMENTS.—The Secretary of Transportation may make a grant of financial assistance under this section only if—

(1) the Secretary decides the rail passenger terminal has a reasonable likelihood of being converted to, or conditioned for reuse as, an intermodal transportation terminal, a civic or cultural activities center, or both; and

(2) planning activity directed toward conversion or reuse has begun and is proceeding in a competent way.

(c) MAXIMIZING PRESERVATION OF TERMINALS.—(1) Amounts appropriated to carry out this section and section 5562(a)(2) of this title shall be expended in the way most likely to maximize the preservation of rail passenger terminals that are—

(A) reasonably capable of conversion to intermodal transportation terminals;

(B) listed in the National Register of Historic Places maintained by the Secretary of the Interior; or

(C) recommended (on the basis of architectural integrity and quality) by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts.

(2) The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of maintaining the terminal for an interim period of not more than 5 years.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 852.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5564(a)	49 App.:1653(i)(3) (1st sentence words before proviso).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 4(i)(3); added Oct. 28, 1974, Pub. L. 93–496, §§ 6, 15, 88 Stat. 1529, 1533; Oct. 5, 1978, Pub. L. 95–421, § 14, 92 Stat. 929.
5564(b)	49 App.:1653(i)(3) (1st sentence proviso).	
5564(c)	49 App.:1653(i)(3) (2d, last sentences).	

In subsection (a), the words ''Subject to subsection (b) of this section'' are added for clarity. The word ''authority'' is substituted for ''entity'' for consistency in the revised title. The words ''in accordance with regulations'' and ''applicable'' are omitted as surplus.

In subsection (b), the words before clause (1) are substituted for ''*Provided*, That'' for clarity and consistency in the revised title.

In subsection (c)(2), the words ''The Secretary of Transportation may not make a grant'' are substituted for ''The amount of the Federal share of any grant . . . shall not exceed'' for clarity and consistency in this chapter.

§ 5565. Encouraging the development of plans for converting certain rail passenger terminals

(a) GENERAL GRANT AUTHORITY.—The Secretary of Transportation may make a grant of financial assistance to a qualified person (including a governmental authority) to encourage the development of plans for converting a rail passenger terminal under section 5562(a)(4) of this title. To receive assistance under this section, the person must—

(1) be prepared to develop practicable plans that meet zoning, land use, and other requirements of the applicable State and local jurisdictions in which the terminal is located;

(2) incorporate into the designs and plans proposed for converting the terminal, features that reasonably appear likely to attract private investors willing to carry out the planned conversion and its subsequent maintenance and operation; and

(3) complete the designs and plans for the conversion within the period of time prescribed by the Secretary.

(b) PREFERENCE.—In making a grant under this section, the Secretary of Transportation shall give preferential consideration to an applicant whose completed designs and plans will be carried out within 3 years after their completion.

(c) MAXIMIZING CONVERSION AND CONTINUED PUBLIC USE.—(1) Amounts appropriated to carry out this section and section 5562(a)(4) of this title shall be expended in the way most likely to maximize the conversion and continued public use of rail passenger terminals that are—

(A) listed in the National Register of Historic Places maintained by the Secretary of the Interior; or

(B) recommended (on the basis of architectural integrity and quality) by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts.

(2) The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of the project for which the financial assistance is provided.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 853; Pub. L. 103–429, §6(15), Oct. 31, 1994, 108 Stat. 4379.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5565(a)	49 App.:1653(i)(5) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §4(i)(5); added Oct. 28, 1974, Pub. L. 93–496, §§6, 15, 88 Stat. 1529, 1533; Feb. 5, 1976, Pub. L. 94–210, §707(3), 90 Stat. 125; Oct. 5, 1978, Pub. L. 95–421, §14, 92 Stat. 929; Sept. 29, 1979, Pub. L. 96–73, §128, 93 Stat. 553; May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 412.
5565(b)	49 App.:1653(i)(5) (2d sentence).	
5565(c)	49 App.:1653(i)(5) (3d, last sentences).	

In subsection (a), before clause (1), the word ''authority'' is substituted for ''entity'' for consistency in the revised title. The words ''in accordance with regulations'' are omitted as unnecessary because of 49:322(a). In clause (1), the words ''as well as requirements . . . under this subsection'' are omitted as unnecessary because of the restatement. In clause (2), the words ''into an intermodal transportation terminal, a civic or cultural center, or both'' are omitted as unnecessary. In clause (3), the word ''prescribed'' is substituted for ''establishes'' as being more appropriate.

In subsection (b), the words ''carried out'' are substituted for ''implemented and effectuated'' for consistency in the revised title.

In subsection (c)(2), the words ''The Secretary of Transportation may not make a grant'' are substituted for ''The amount of the Federal share of any grant . . . shall not exceed'' for clarity and consistency in this chapter. The word ''undertaking'' is omitted as being included in ''project''.

PUB. L. 103–429

This amends 49:5565 to correct an erroneous section catchline.

AMENDMENTS

1994—Pub. L. 103–429 inserted ''certain'' after ''converting'' in section catchline.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§ 5566. Records and audits

(a) RECORD REQUIREMENTS.—Each recipient of financial assistance under this chapter shall keep records required by the Secretary of Transportation. The records shall disclose—

(1) the amount, and disposition by the recipient, of the proceeds of the assistance;

(2) the total cost of the project for which the assistance was given or used;

(3) the amount of that part of the cost of the project supplied by other sources; and

(4) any other records that will make an effective audit easier.

(b) AUDITS AND INSPECTIONS.—For 3 years after a project is completed, the Secretary and the Comptroller General may audit and inspect records of a recipient that the Secretary or Comptroller General decides may be related or pertinent to the financial assistance.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 853.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5566(a)	49 App.:1653(i)(8) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §4(i)(8); added Oct. 28, 1974, Pub. L. 93–496, §§6, 15, 88 Stat. 1530, 1533; Feb. 5, 1976, Pub. L. 94–210, §707(3), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 412.
5566(b)	49 App.:1653(i)(8) (last sentence).	

In this section, the word ''undertaking'' is omitted as being included in ''project''.

In subsection (a), before clause (1), the word ''fully'' is omitted as surplus.

In subsection (b), the words ''the expiration of'' and ''of the United States'' are omitted as surplus. The words ''or any of their duly authorized representatives'' are omitted as unnecessary because of 49:322(b) and 31:711(2). The words ''may audit and inspect'' are substituted for ''shall have access for the purpose of audit and examination'' for consistency in the revised title and with other titles of the United States Code. The word ''recipient'' is substituted for ''such receipts'' to correct an error in the underlying source provisions.

§ 5567. Preference for preserving buildings of historic or architectural significance

Amtrak shall give preference to the use of rail passenger terminal facilities that will preserve buildings of historic or architectural significance.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 854.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5567	49 App.:1653(i)(7).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 4(i)(7); added Oct. 28, 1974, Pub. L. 93–496, §§ 6, 15, 88 Stat. 1530, 1533; Feb. 5, 1976, Pub. L. 94–210, § 707(3), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, § 206(a), 94 Stat. 412.

The word ''Amtrak'' is substituted for ''The National Railroad Passenger Corporation'' for consistency in the revised title. The words ''rail passenger terminal'' are substituted for ''station'' for consistency in this chapter. The word ''or'' is substituted for ''and'' for consistency with the source provisions being restated in section 5562(a)(3) of the revised title.

§ 5568. Authorization of appropriations

(a) GENERAL.—The following amounts may be appropriated to the Secretary of Transportation:

(1) not more than $15,000,000 to carry out section 5562(a)(1) and (3) of this title.

(2) not more than $2,500,000 to carry out section 5562(a)(2) of this title.

(3) not more than $2,500,000 to carry out section 5562(a)(4) of this title.

(b) AVAILABILITY OF AMOUNTS.—Amounts appropriated to carry out this chapter remain available until expended.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 854.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5568	49 App.:1653(i)(9).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 4(i)(9); added Oct. 28, 1974, Pub. L. 93–496, §§ 6, 15, 88 Stat. 1530, 1533; restated Feb. 5, 1976, Pub. L. 94–210, § 707(3), (5), 90 Stat. 125; Oct. 19, 1976, Pub. L. 94–555, § 219(a), 90 Stat. 2629; May 30, 1980, Pub. L. 96–254, § 206(a), 94 Stat. 412.

In subsection (a), before clause (1), the words ''to the Secretary of Transportation'' are added for clarity and consistency in this chapter.

In subsection (b), the words ''to carry out'' are substituted for ''for the purpose set forth . . . in'' for consistency in the revised title and with other titles of the United States Code.

CHAPTER 57—SANITARY FOOD TRANSPORTATION

Sec.
5701. Findings.
5702. Definitions.
5703. General regulation.
5704. Tank trucks, rail tank cars, and cargo tanks.
5705. Motor and rail transportation of nonfood products.
5706. Dedicated vehicles.
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5709. Consultation.
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5712. Relationship to other laws.
5713. Application of sections 5711 and 5712.
5714. Coordination procedures.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 20109, 20111, 20114 of this title.

§ 5701. Findings

Congress finds that—

(1) the United States public is entitled to receive food and other consumer products that are not made unsafe because of certain transportation practices;

(2) the United States public is threatened by the transportation of products potentially harmful to consumers in motor vehicles and rail vehicles that are used to transport food and other consumer products; and

(3) the risks to consumers by those transportation practices are unnecessary and those practices must be ended.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 854.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5701	49 App.:2801.	Nov. 3, 1990, Pub. L. 101–500, § 2, 104 Stat. 1213.

§ 5702. Definitions

In this chapter—

(1) ''cosmetic'', ''device'', ''drug'', ''food'', and ''food additive'' have the same meanings given those terms in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(2) ''nonfood product'' means (individually or by class) a material, substance, or product that is not a cosmetic, device, drug, food, or food additive, or is deemed a nonfood product under section 5703(a)(2) of this title, including refuse and solid waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

(3) ''refuse'' means discarded material that is, or is required by law, to be transported to or disposed of in a landfill or incinerator.

(4) ''State'' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, and any other territory or possession of the United States.

(5) ''transports'' and ''transportation'' mean any movement of property in commerce (including intrastate commerce) by motor vehicle or rail vehicle.

(6) ''United States'' means all of the States.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 854.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5702	49 App.:2802.	Nov. 3, 1990, Pub. L. 101–500, § 3, 104 Stat. 1213.

In this section, the definition of ''Secretary'' is omitted as unnecessary because the complete title of the Secretary of Transportation is used the first time the term appears in a section.

In clause (2), the words ''(individually or by class)'' are substituted for ''Such term includes any class of such materials, substances, or products'' to eliminate unnecessary words. The words ''or is deemed a nonfood product under section 5703(a)(2) of this title'' are substituted for ''(except as provided under section 4(a)(2))'' for clarity.

In clause (4), the words ''the Commonwealth of'' are omitted as surplus.

§ 5703. General regulation

(a) GENERAL REQUIREMENTS.—(1) Not later than July 31, 1991, the Secretary of Transportation, after consultation required by section 5709 of this title, shall prescribe regulations on the transportation of cosmetics, devices, drugs, food, and food additives in motor vehicles and rail vehicles that are used to transport nonfood products that would make the cosmetics, devices, drugs, food, or food additives unsafe to humans or animals.

(2) The Secretary shall deem a cosmetic, device, or drug to be a nonfood product if—

(A) the cosmetic, device, or drug is transported in a motor vehicle or rail vehicle before, or at the same time as, a food or food additive; and

(B) transportation of the cosmetic, device, or drug would make the food or food additive unsafe to humans or animals.

(b) SPECIAL REQUIREMENTS.—In prescribing regulations under subsection (a)(1) of this section, the Secretary, after consultation required by section 5709 of this title, shall establish requirements for appropriate—

(1) recordkeeping, identification, marking, certification, or other means of verification to comply with sections 5704–5706 of this title;

(2) decontamination, removal, disposal, and isolation to comply with regulations carrying out sections 5704 and 5705 of this title; and

(3) material for the construction of tank trucks, rail tank cars, cargo tanks, and accessory equipment to comply with regulations carrying out section 5704 of this title.

(c) CONSIDERATIONS AND ADDITIONAL REQUIREMENTS.—In prescribing regulations under subsection (a)(1) of this section, the Secretary, after consultation required by section 5709 of this title, shall consider, and may establish requirements related to, each of the following:

(1) the extent to which packaging or similar means of protecting and isolating commodities are adequate to eliminate or ameliorate the potential risks of transporting cosmetics, devices, drugs, food, or food additives in motor vehicles or rail vehicles used to transport nonfood products.

(2) appropriate compliance and enforcement measures to carry out this chapter.

(3) appropriate minimum insurance or other liability requirements for a person to whom this chapter applies.

(d) PACKAGES MEETING PACKAGING STANDARDS.—If the Secretary finds packaging standards to be adequate, regulations under subsection (a)(1) of this section may not apply to cosmetics, devices, drugs, food, food additives, or nonfood products packaged in packages that meet the standards.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 855.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5703(a)	49 App.:2803(a), (d).	Nov. 3, 1990, Pub. L. 101–500, § 4, 104 Stat. 1214.
5703(b)	49 App.:2803(b).	
5703(c)	49 App.:2803(c)(1) (1st sentence), (2), (3).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5703(d)	49 App.:2803(c)(1) (last sentence).	

In this chapter, the words ''the health of'' are omitted as surplus.

In subsection (a)(1), the words ''Not later than July 31, 1991'' are substituted for ''The regulations referred to in subsection (a)(1) shall be issued within 270 days after such date of enactment'' in 49 App.:2803(d) because of the restatement. The text of 49 App.:2803(d) (1st sentence) is omitted as executed. The words ''In accordance with this chapter'', ''pursuant to a rulemaking proceeding'', and ''when so transported'' are omitted as surplus. The words ''either refuse or other'' are omitted as unnecessary because of the definition of ''nonfood product'' in section 5702 of the revised title.

In subsection (a)(2), before clause (A), the word ''deem'' is substituted for ''treat'' for consistency in the revised title.

In subsection (b), before clause (1), the words ''standards'' and ''and other provisions'' are omitted as surplus. In clause (1), the words ''to comply'' are substituted for ''required to promote compliance'' for consistency in this subsection. In clause (2), the word ''standards'' is omitted because it is redundant to the introductory language of this subsection. The words ''to comply with'' are substituted for ''with respect to'' for clarity and consistency in this subsection.

In subsection (c), before clause (1), the words ''standards'' and ''or other provisions'' are omitted as surplus. The words ''any or all of'' are omitted as unnecessary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5702, 5704, 5705, 5706, 5709, 5713 of this title.

§ 5704. Tank trucks, rail tank cars, and cargo tanks

(a) PROHIBITIONS.—The regulations prescribed under section 5703(a)(1) of this title shall include provisions prohibiting a person from—

(1) using, offering for use, or arranging for the use of a tank truck, rail tank car, or cargo tank used in motor vehicle or rail transportation of cosmetics, devices, drugs, food, or food additives if the tank truck, rail tank car, or cargo tank is used to transport a nonfood product, except a nonfood product included in a list published under subsection (b) of this section;

(2) using, offering for use, or arranging for the use of a tank truck or cargo tank to provide motor vehicle transportation of cosmetics, devices, drugs, food, food additives, or nonfood products included in the list published under subsection (b) of this section unless the tank truck or cargo tank is identified, by a permanent marking on the tank truck or cargo tank, as transporting only cosmetics, devices, drugs, food, food additives, or nonfood products included in the list;

(3) using, offering for use, or arranging for the use of a tank truck or cargo tank to provide motor vehicle transportation of a nonfood product that is not included in the list published under subsection (b) of this section if the tank truck or cargo tank is identified, as provided in clause (2) of this subsection, as a tank truck or cargo tank transporting only cosmetics, devices, drugs, food, food additives, or nonfood products included in the list; or

(4) receiving, except for lawful disposal purposes, any cosmetic, device, drug, food, food additive, or nonfood product that has been transported in a tank truck or cargo tank in violation of clause (2) or (3) of this subsection.

(b) LIST OF NONFOOD PRODUCTS NOT UNSAFE.—After consultation required by section 5709 of this title, the Secretary of Transportation shall publish in the Federal Register a list of nonfood products the Secretary decides do not make cosmetics, devices, drugs, food, or food additives unsafe to humans or animals because of transportation of the nonfood products in a tank truck, rail tank car, or cargo tank used to transport cosmetics, devices, drugs, food, or food additives. The Secretary may amend the list periodically by publication in the Federal Register.

(c) DISCLOSURE.—A person that arranges for the use of a tank truck or cargo tank used in motor vehicle transportation for the transportation of a cosmetic, device, drug, food, food additive, or nonfood product shall disclose to the motor carrier or other appropriate person if the cosmetic, device, drug, food, food additive, or nonfood product being transported is to be used—

(1) as, or in the preparation of, a food or food additive; or

(2) as a nonfood product included in the list published under subsection (b) of this section.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 856.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5704(a)	49 App.:2804(a), (c).	Nov. 3, 1990, Pub. L. 101–500, § 5, 104 Stat. 1215.
5704(b)	49 App.:2804(b).	
5704(c)	49 App.:2804(d).	

In subsection (a), before clause (1), the words ''shall include provisions prohibiting'' are substituted for ''At a minimum . . . shall prohibit'' because of the restatement. In restating 49 App.:2804(c)(1), the word ''only'' is omitted before ''food'' the first time it appears and added before ''food'' the 2d time it appears to reflect the probable intent of Congress. Compare the location of the word ''only'' in 49 App.:2804(c)(2).

In subsection (b), the word ''decides'' is substituted for ''determined'' for consistency in the revised title. The words ''of the nonfood products'' are added for clarity.

In subsection (c), before clause (1), the words ''in making such arrangement'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5703, 5705, 5709 of this title.

§ 5705. Motor and rail transportation of nonfood products

(a) PROHIBITIONS.—The regulations prescribed under section 5703(a)(1) of this title shall include provisions prohibiting a person from using, offering for use, or arranging for the use of a motor vehicle or rail vehicle (except a tank truck, rail tank car, or cargo tank described in section 5704 of this title) to transport cosmetics, devices, drugs, food, or food additives if the vehicle is used to transport nonfood products included in a list published under subsection (b) of this section.

(b) LIST OF UNSAFE NONFOOD PRODUCTS.—(1) After consultation required by section 5709 of this title, the Secretary of Transportation shall publish in the Federal Register a list of nonfood products the Secretary decides would make cosmetics, devices, drugs, food, or food additives unsafe to humans or animals because of transportation of the nonfood products in a motor vehicle or rail vehicle used to transport cosmetics, devices, drugs, food, or food additives. The Secretary may amend the list periodically by publication in the Federal Register.

(2) The list published under paragraph (1) of this subsection may not include cardboard, pallets, beverage containers, and other food packaging except to the extent the Secretary decides that the transportation of cardboard, pallets, beverage containers, or other food packaging in a motor vehicle or rail vehicle used to transport cosmetics, devices, drugs, food, or food additives would make the cosmetics, devices, drugs, food, or food additives unsafe to humans or animals.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 857.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5705	49 App.:2805.	Nov. 3, 1990, Pub. L. 101–500, § 6, 104 Stat. 1216.

In subsection (b)(1), the word ''decides'' is substituted for ''determined'' for consistency in the revised title. The words ''of the nonfood products'' are added for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5703, 5709 of this title.

§ 5706. Dedicated vehicles

(a) PROHIBITIONS.—The regulations prescribed under section 5703(a)(1) of this title shall include provisions prohibiting a person from using, offering for use, or arranging for the use of a motor vehicle or rail vehicle to transport asbestos, in forms or quantities the Secretary of Transportation decides are necessary, or products that present an extreme danger to humans or animals, despite any decontamination, removal, disposal, packaging, or other isolation procedures, unless the motor vehicle or rail vehicle is used only to transport one or more of the following: asbestos, those extremely dangerous products, or refuse.

(b) LIST OF APPLICABLE PRODUCTS.—After consultation required by section 5709 of this title, the Secretary shall publish in the Federal Register a list of the products to which this section applies. The Secretary may amend the list periodically by publication in the Federal Register.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 857.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5706	49 App.:2806.	Nov. 3, 1990, Pub. L. 101–500, § 7, 104 Stat. 1216.

In subsection (a), the words ''humans or animals'' are substituted for ''human or animal health'' for consistency in this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5703, 5709 of this title.

§ 5707. Waiver authority

(a) GENERAL AUTHORITY.—After consultation required by section 5709 of this title, the Secretary of Transportation may waive any part of this chapter or regulations prescribed under this chapter for a class of persons, motor vehicles, rail vehicles, cosmetics, devices, drugs, food, food additives, or nonfood products, if the Secretary decides that the waiver—

(1) would not result in the transportation of cosmetics, devices, drugs, food, or food additives that would be unsafe to humans or animals; and

(2) would not be contrary to the public interest and this chapter.

(b) PUBLICATION OF WAIVERS.—The Secretary shall publish in the Federal Register any waiver and the reasons for the waiver.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 857.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5707	49 App.:2807.	Nov. 3, 1990, Pub. L. 101–500, § 8, 104 Stat. 1216.

In subsection (a), before clause (1), the words ''any part of'' are substituted for ''in whole or in part'' for consistency in the revised title. The words ''application of any provision of'' are omitted as surplus. The word ''refuse'' is omitted as unnecessary because of the definition of ''nonfood product'' in section 5702 of the revised title. The word ''decides'' is substituted for ''determines'' for consistency in the revised title. In clause (2), the word ''otherwise'' is omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5709 of this title.

§ 5708. Food transportation inspections

(a) GENERAL AUTHORITY.—For commercial motor vehicles, the Secretary of Transportation may carry out this chapter and assist in carrying out compatible State laws and regulations through means that include inspections conducted by State employees that are paid for with money authorized under section 31104 of this title, if the recipient State agrees to assist in the enforcement of this chapter or is enforcing compatible State laws and regulations.

(b) PROVIDING ASSISTANCE.—On the request of the Secretary of Transportation, the Secretaries of Agriculture and Health and Human Services, the Administrator of the Environmental Protection Agency, and the heads of other appropriate departments, agencies, and instrumentalities of the United States Government shall provide assistance, to the extent available, to the Secretary of Transportation to carry out this chapter, including assistance in the training of personnel under a program established under subsection (c) of this section.

(c) TRAINING PROGRAM.—After consultation required by section 5709 of this title and consultation with the heads of appropriate State transportation and food safety authorities, the Secretary of Transportation shall develop and carry out a training program for inspectors to conduct vigorous enforcement of this chapter and regulations prescribed under this chapter or compatible State laws and regulations. As part of the training program, the inspectors, including State inspectors or personnel paid with money authorized under section 31104 of this title, shall be trained in the recognition of adulteration problems associated with the transportation of cosmetics, devices, drugs, food, and food additives and in the procedures for obtaining assistance of the appropriate departments, agencies, and instrumentalities of the Government and State authorities to support the enforcement.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 858.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5708	49 App.:2808.	Nov. 3, 1990, Pub. L. 101–500, § 9, 104 Stat. 1217.

In subsections (a) and (c), the words ''authorized under section 31104 of this title'' are substituted for ''authorized under sections 2302 through 2304 of this Appendix to carry out the motor carrier safety assistance program'' in 49 App.:2808(a) and ''under the motor carrier safety assistance program'' in 49 App.:2808(c) for clarity and consistency in the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5709 of this title.

§ 5709. Consultation

As provided by sections 5703–5708 of this title, the Secretary of Transportation shall consult with the Secretaries of Agriculture and Health and Human Services and the Administrator of the Environmental Protection Agency.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 858.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5709	(no source).	

This section is based on the language about consultation in the source provisions for several sections in this chapter and is created to avoid having to repeat in each of those sections the individuals with whom the Secretary is required to consult in carrying out those sections.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5703, 5704, 5705, 5706, 5707, 5708 of this title.

§ 5710. Administrative

The Secretary of Transportation has the same duties and powers in regulating transportation under this chapter as the Secretary has under section 5121(a)–(c) (except subsection (c)(1)(A)) of this title in regulating transportation under chapter 51 of this title.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 858.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5710	49 App.:2809.	Nov. 3, 1990, Pub. L. 101–500, § 10, 104 Stat. 1217.

The words ''and authorities'' are omitted as surplus. The words ''in regulating transportation under this chapter'' are substituted for ''under this chapter with respect to transportation regulated under this chap-

ter'', and the words ''in regulating transportation under chapter 51 of this title'' are substituted for ''with respect to transportation regulated under such chapter'', for consistency and to eliminate unnecessary words.

§ 5711. Enforcement and penalties

(a) ACTIONS.—The Secretary of Transportation shall request that a civil action be brought and take action to eliminate or ameliorate an imminent hazard related to a violation of a regulation prescribed or order issued under this chapter in the same way and to the same extent as authorized by section 5122 of this title.

(b) APPLICABLE PENALTIES AND PROCEDURES.—The penalties and procedures in sections 5123 and 5124 of this title apply to a violation of a regulation prescribed or order issued under this chapter.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 858.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5711(a)	49 App.:2810(b).	Nov. 3, 1990, Pub. L. 101–500, § 11, 104 Stat. 1217.
5711(b)	49 App.:2810(a).	

This section is substituted for the source provisions for consistency and to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5713 of this title.

§ 5712. Relationship to other laws

Section 5125 of this title applies to the relationship between this chapter and a requirement of a State, a political subdivision of a State, or an Indian tribe.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 859.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5712	49 App.:2811.	Nov. 3, 1990, Pub. L. 101–500, § 12, 104 Stat. 1218.

This section is substituted for the source provisions for consistency and to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5713 of this title.

§ 5713. Application of sections 5711 and 5712

Sections 5711 and 5712 of this title apply only to transportation occurring on or after the date that regulations prescribed under section 5703(a)(1) of this title are effective.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 859.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5713	49 App.:2801 (note).	Nov. 3, 1990, Pub. L. 101–500, § 14, 104 Stat. 1218.

The words ''This Act shall take effect on the date of enactment of this Act'' are omitted as executed.

§ 5714. Coordination procedures

Not later than November 3, 1991, the Secretary of Transportation, after consultation with appropriate State officials, shall establish procedures to promote more effective coordination between the departments, agencies, and instrumentalities of the United States Government and State authorities with regulatory authority over motor carrier safety and railroad safety in carrying out and enforcing this chapter.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 859.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5714	49 App.:2812.	Nov. 3, 1990, Pub. L. 101–500, § 13, 104 Stat. 1218.

CHAPTER 59—INTERMODAL SAFE CONTAINER TRANSPORTATION

Sec.
5901. Definitions.
5902. Notifications and certifications.
5903. Prohibitions.
5904. State enforcement.
5905. Liens.
5906. Perishable agricultural commodities.
5907. Effective date.
5908. Relationship to other laws.

AMENDMENTS

1996—Pub. L. 104–291, title II, §§ 208(b), 209(b), Oct. 11, 1996, 110 Stat. 3457, 3458, substituted ''Effective date'' for ''Regulations and effective date'' in item 5907 and added item 5908.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 521 of this title.

§ 5901. Definitions

In this chapter—

(1) except as otherwise provided in this chapter, the definitions in sections 10102 and 13102 of this title apply.

(2) ''beneficial owner'' means a person not having title to property but having ownership rights in the property, including a trustee of property in transit from an overseas place of origin that is domiciled or doing business in the United States, except that a carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouser, or terminal operator is not a beneficial owner only because of providing or arranging for any part of the intermodal transportation of property.

(3) ''carrier'' means—

(A) a motor carrier, water carrier, and rail carrier providing transportation of property in commerce; and

(B) an ocean common carrier (as defined in section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702)) providing transportation of property in commerce.

(4) ''container'' has the meaning given the term ''freight container'' by the International Standards Organization in Series 1, Freight Containers, 3d Edition (reference number ISO668–1979(E)), including successive revisions, and similar containers that are used in providing transportation in interstate commerce.

(5) ''first carrier'' means the first carrier transporting a loaded container or trailer in intermodal transportation.

(6) ''gross cargo weight'' means the weight of the cargo, packaging materials (including ice), pallets, and dunnage.

(7) ''intermodal transportation'' means the successive transportation of a loaded container or trailer from its place of origin to its place of destination by more than one mode of transportation in interstate or foreign commerce, whether under a single bill of lading or under separate bills of lading.

(8) ''trailer'' means a nonpower, property-carrying, trailing unit that is designed for use in combination with a truck tractor.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 859; Pub. L. 104–291, title II, §203, Oct. 11, 1996, 110 Stat. 3453.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5901(1)	49:501(a)(1).	
5901(2)	49:501(a)(4).	
5901(3)	49:501(a)(5).	
5901(4)	49:501(a)(6).	
5901(5)	49:501(a)(7).	
5901(6)	49:501(a)(8).	
5901(7)	49:501(a)(9).	

This chapter restates 49:508 and the relevant definitions in 49:501 because the subject matter more appropriately belongs in subtitle III of title 49. The text of 49:501(a)(1) is restated to incorporate the definitions in 49:10102. The terms defined in 49:501(a)(2) and (3) are not used in this chapter.

In clause (2), the word ''including'' is substituted for ''For purposes of this paragraph . . . shall be treated as a beneficial owner of such property'' for consistency and to eliminate unnecessary words. The words ''is not a beneficial owner only because of providing or arranging for any part of the intermodal transportation of property'' are substituted for ''providing or arranging for any portion of intermodal transportation of property shall in no case be a beneficial owner of such property, for purposes of this paragraph, solely by reason of providing or arranging for such transportation'' to eliminate unnecessary words.

In clause (3)(A), the words ''(as such terms are defined in section 10102 of this title)'' are omitted as unnecessary because of clause (1) of this section.

In clause (7), the words ''property-carrying'' are substituted for ''cargo carrying'' for consistency in the revised title.

AMENDMENTS

1996—Par. (1). Pub. L. 104–291, §203(1), added par. (1) and struck out former par. (1) which read as follows: ''the definitions in section 10102 of this title apply.''

Pars. (6) to (8). Pub. L. 104–291, §203(2), (3), added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively.

§ 5902. Notifications and certifications

(a) PRIOR NOTIFICATION.—If the first carrier to which any loaded container or trailer having a projected gross cargo weight of more than 29,000 pounds is tendered for intermodal transportation is a motor carrier, the person tendering the container or trailer shall give the motor carrier a notification of the gross cargo weight and a reasonable description of the contents of the container or trailer before the tendering of the container or trailer. The notification may be transmitted electronically or by telephone. This subsection applies to any person within the United States who tenders a container or trailer subject to this chapter for intermodal transportation if the first carrier is a motor carrier.

(b) CERTIFICATION.—

(1) IN GENERAL.—A person who tenders a loaded container or trailer with an actual gross cargo weight of more than 29,000 pounds to a first carrier for intermodal transportation shall provide a certification of the contents of the container or trailer in writing, or electronically, before or when the container or trailer is so tendered.

(2) CONTENTS OF CERTIFICATION.—The certification required by paragraph (1) shall include—

(A) the actual gross cargo weight;

(B) a reasonable description of the contents of the container or trailer;

(C) the identity of the certifying party;

(D) the container or trailer number; and

(E) the date of certification or transfer of data to another document, as provided for in paragraph (3).

(3) TRANSFER OF CERTIFICATION DATA.—A carrier who receives a certification may transfer the information contained in the certification to another document or to electronic format for forwarding to a subsequent carrier. The person transferring the information shall state on the forwarded document the date on which the data was transferred and the identity of the party who performed the transfer.

(4) SHIPPING DOCUMENTS.—For purposes of this chapter, a shipping document, prepared by the person who tenders a container or trailer to a first carrier, that contains the information required by paragraph (2) meets the requirements of paragraph (1).

(5) USE OF ''FREIGHT ALL KINDS'' TERM.—The term ''Freight All Kinds'' or ''FAK'' may not be used for the purpose of certification under section 5902(b) after December 31, 2000, as a commodity description for a trailer or container if the weight of any commodity in the trailer or container equals or exceeds 20 percent of the total weight of the contents of the trailer or container. This subsection does not prohibit the use of the term after that date for rating purposes.

(6) SEPARATE DOCUMENT MARKING.—If a separate document is used to meet the requirements of paragraph (1), it shall be conspicuously marked ''INTERMODAL CERTIFICATION''.

(7) APPLICABILITY.—This subsection applies to any person, domestic or foreign, who first tenders a container or trailer subject to this chapter for intermodal transportation within the United States.

(c) FORWARDING CERTIFICATIONS TO SUBSEQUENT CARRIERS.—A carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouser, or terminal operator shall forward the certification provided under subsection (b) of this section to a subsequent carrier transporting the container or trailer in intermodal transportation before or when the loaded intermodal container or trailer is tendered to the subsequent carrier. If no certification is received by the subsequent carrier before or when the container or trailer is tendered to it, the subsequent carrier may presume that no certification is required. The act of forwarding the certification may not be construed as a verification or affirmation of the accuracy or completeness of the information in the certification. If a person in-

accurately transfers the information on the certification, or fails to forward the certification to a subsequent carrier, then that person is liable to any person who incurs any bond, fine, penalty, cost (including storage), or interest for any such fine, penalty, cost (including storage), or interest incurred as a result of the inaccurate transfer of information or failure to forward the certification. A subsequent carrier who incurs a bond, fine, penalty, or cost (including storage), or interest as a result of the inaccurate transfer of the information, or the failure to forward the certification, shall have a lien against the contents of the container or trailer under section 5905 in the amount of the bond, fine, penalty, or cost (including storage), or interest and all court costs and legal fees incurred by the carrier as a result of such inaccurate transfer or failure.

(d) LIABILITY TO OWNER OR BENEFICIAL OWNER.—If—

(1) a person inaccurately transfers information on a certification required by subsection (b)(1), or fails to forward a certification to the subsequent carrier;

(2) as a result of the inaccurate transfer of such information or a failure to forward a certification, the subsequent carrier incurs a bond, fine, penalty, or cost (including storage), or interest; and

(3) that subsequent carrier exercises its rights to a lien under section 5905,

then that person is liable to the owner or beneficial owner, or to any other person paying the amount of the lien to the subsequent carrier, for the amount of the lien and all costs related to the imposition of the lien, including court costs and legal fees incurred in connection with it.

(e) NONAPPLICATION.—(1) The notification and certification requirements of subsections (a) and (b) of this section do not apply to any intermodal container or trailer containing consolidated shipments loaded by a motor carrier if that motor carrier—

(A) performs the highway portion of the intermodal movement; or

(B) assumes the responsibility for any weight-related fine or penalty incurred by any other motor carrier that performs a part of the highway transportation.

(2) Subsections (a) and (b) of this section and section 5903(c) of this title do not apply to a carrier when the carrier is transferring a loaded container or trailer to another carrier during intermodal transportation, unless the carrier is also the person tendering the loaded container or trailer to the first carrier.

(3) A carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouser, or terminal operator is deemed not to be a person tendering a loaded container or trailer to a first carrier under this section, unless the carrier, agent, broker, customs broker, freight forwarder, warehouser, or terminal operator assumes legal responsibility for loading property into the container or trailer.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 860; Pub. L. 104–291, title II, § 204, Oct. 11, 1996, 110 Stat. 3453.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5902(a)	49:508(a)(1).	
5902(b)	49:508(a)(2).	
5902(c)	49:508(b).	
5902(d)(1)	49:508(e).	
5902(d)(2)	49:508(a)(4).	

In subsection (c), the words ''shall forward'' are substituted for ''It shall be a violation of this section for . . . to fail to forward'' for clarity. The words ''may not be construed as'' are substituted for ''shall not constitute, or in any way be construed as'' to eliminate unnecessary words.

In subsection (d)(2), the words ''is deemed not to be'' are substituted for ''shall not be considered to be'' for consistency in the revised title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–291, § 204(a)(4), (5), substituted ''electronically or by telephone. This subsection applies to any person within the United States who tenders a container or trailer subject to this chapter for intermodal transportation if the first carrier is a motor carrier.'' for ''electronically.''

Pub. L. 104–291, § 204(a)(3), inserted ''before the tendering of the container or trailer'' after ''contents of the container or trailer''.

Pub. L. 104–291, § 204(a)(2), substituted ''29,000 pounds is tendered for intermodal transportation is a motor carrier, the person tendering the container or trailer shall give the motor carrier a'' for ''10,000 pounds (including packing material and pallets), the person shall give the carrier a written''.

Pub. L. 104–291, § 204(a)(1), substituted ''If the first carrier to which any'' for ''Before a person tenders to a first carrier for intermodal transportation a''.

Subsec. (b). Pub. L. 104–291, § 204(b), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''Not later than when a person tenders to a first carrier for intermodal transportation a container or trailer to which subsection (a) of this section applies or a loaded container or trailer having an actual gross cargo weight of more than 10,000 pounds (including packing material and pallets), the person shall certify to the carrier in writing the actual gross cargo weight and a reasonable description of the contents of the container or trailer.''

Subsec. (c). Pub. L. 104–291, § 204(c)(2), inserted at end ''If a person inaccurately transfers the information on the certification, or fails to forward the certification to a subsequent carrier, then that person is liable to any person who incurs any bond, fine, penalty, cost (including storage), or interest for any such fine, penalty, cost (including storage), or interest incurred as a result of the inaccurate transfer of information or failure to forward the certification. A subsequent carrier who incurs a bond, fine, penalty, or cost (including storage), or interest as a result of the inaccurate transfer of the information, or the failure to forward the certification, shall have a lien against the contents of the container or trailer under section 5905 in the amount of the bond, fine, penalty, or cost (including storage), or interest and all court costs and legal fees incurred by the carrier as a result of such inaccurate transfer or failure.''

Pub. L. 104–291, § 204(c)(1), substituted ''transportation before or when the loaded intermodal container or trailer is tendered to the subsequent carrier. If no certification is received by the subsequent carrier before or when the container or trailer is tendered to it, the subsequent carrier may presume that no certification is required.'' for ''transportation.''

Subsec. (d). Pub. L. 104–291, § 204(d), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 104–291, § 204(d), (e), redesignated subsec. (d) as (e), added par. (1), redesignated former pars. (1) and (2) as (2) and (3), respectively, and adjusted margin of par. (2).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5903, 5904, 5905 of this title.

§ 5903. Prohibitions

(a) PROVIDING ERRONEOUS INFORMATION.—A person, To[1] whom section 5902(b) applies, tendering a loaded container or trailer may not provide erroneous information in a certification required by section 5902(b) of this title.

(b) TRANSPORTING PRIOR TO RECEIVING CERTIFICATION.—

(1) PRESUMPTION.—If no certification is received by a motor carrier before or when a loaded intermodal container or trailer is tendered to it, the motor carrier may presume that the gross cargo weight of the container or trailer is less than 29,001 pounds.

(2) COPY OF CERTIFICATION NOT REQUIRED TO ACCOMPANY CONTAINER OR TRAILER.—Notwithstanding any other provision of this chapter to the contrary, a copy of the certification required by section 5902(b) is not required to accompany the intermodal container or trailer.

(c) UNLAWFUL COERCION.—(1) A person may not coerce or attempt to coerce a person participating in intermodal transportation to transport a loaded container or trailer having an actual gross cargo weight of more than 29,000 pounds before the certification required by section 5902(b) of this title is provided.

(2) A person, knowing that the weight of a loaded container or trailer or the weight of a tractor-trailer combination carrying the container or trailer is more than the weight allowed by applicable State law, may not coerce or attempt to coerce a carrier to transport the container or trailer or to operate the tractor-trailer combination in violation of that State law.

(d) NOTICE TO LEASED OPERATORS.—

(1) IN GENERAL.—If a motor carrier knows that the gross cargo weight of an intermodal container or trailer subject to the certification requirements of section 5902(b) would result in a violation of applicable State gross vehicle weight laws, then—

(A) the motor carrier shall give notice to the operator of a vehicle which is leased by the vehicle operator to a motor carrier that transports an intermodal container or trailer of the gross cargo weight of the container or trailer as certified to the motor carrier under section 5902(b);

(B) the notice shall be provided to the operator prior to the operator being tendered the container or trailer;

(C) the notice required by this subsection shall be in writing, but may be transmitted electronically; and

(D) the motor carrier shall bear the burden of proof to establish that it tendered the required notice to the operator.

(2) REIMBURSEMENT.—If the operator of a leased vehicle transporting a container or trailer subject to this chapter is fined because of a violation of a State's gross vehicle weight laws or regulations and the lessee motor carrier cannot establish that it tendered to the operator the notice required by paragraph (1) of this subsection, then the operator shall be entitled to reimbursement from the motor carrier in the amount of any fine and court costs resulting from the failure of the motor carrier to tender the notice to the operator.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 860; Pub. L. 104–291, title II, § 205, Oct. 11, 1996, 110 Stat. 3456.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5903(a)	49:508(a)(3) (related to violations).	
5903(b)	49:508(d).	
5903(c)	49:508(c).	

In this section, the words ''may not'' are substituted for ''it shall be a violation'' and ''It shall be unlawful'' for consistency in the revised title.

In subsection (a), the words ''After the date on which the Secretary of Transportation issues final regulations to enforce this section'' are omitted because of section 5907(b) of the revised title. The words ''to fail to comply with paragraph (1) or (2)'' are omitted as unnecessary because the failure to comply with an affirmative duty is a violation without the need to say so specifically. The word ''false'' is omitted as included in ''erroneous''. The word ''written'' is omitted as surplus.

In subsection (b), the words ''(as such term is defined in section 10102 of this title)'' are omitted as unnecessary because of section 5901(1) of the revised title. The word ''transport'' is substituted for ''provide transportation of'' for consistency and to eliminate unnecessary words.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–291, § 205(1), inserted '', To whom section 5902(b) applies,'' after ''person''.

Subsec. (b). Pub. L. 104–291, § 205(2), added subsec. (b) and struck out former subsec. (b) which read as follows: ''(b) TRANSPORTING PRIOR TO RECEIVING CERTIFICATION.—A motor carrier may not transport a loaded container or trailer to which section 5902(b) of this title applies before receiving the certification required by section 5902(b).''

Subsec. (c). Pub. L. 104–291, § 205(3), substituted ''29,000 pounds'' for ''10,000 pounds (including packing materials and pallets)''.

Subsec. (d). Pub. L. 104–291, § 205(4), added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5902, 5904, 5905 of this title.

§ 5904. State enforcement

(a) GENERAL.—A State may enact a law to permit the State or a political subdivision of the State—

(1) to impose a fine or penalty, for a violation of a State highway weight law or regulation by a tractor-trailer combination carrying a loaded container or trailer for which a certification is required by section 5902(b) of this title, against the person tendering the loaded container or trailer to the first carrier if the violation results from the person's having provided erroneous information in the certification in violation of section 5903(a) of this title; and

(2) to impound the container or trailer until the fine or penalty has been paid by the owner or beneficial owner of the contents of the container or trailer or the person tendering the loaded container or trailer to the first carrier.

[1] So in original. Probably should not be capitalized.

(b) LIMITATION.—This chapter does not require a person tendering a loaded container or trailer to a first carrier to ensure that the first carrier or any other carrier involved in the intermodal transportation will comply with any State highway weight law or regulation, other than as required by this chapter.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 861.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5904(a)	49:508(f).	
5904(b)	49:508(h).	

In subsection (a)(1), the words ''false'' and ''written'' are omitted as surplus and for consistency with section 5903(a) of the revised title.

In subsection (b), the words ''does not require'' are substituted for ''shall not be construed as creating any obligation or responsibility for'' to eliminate unnecessary words. The words ''State highway weight law or regulation'' are substituted for ''State statutes or regulations prescribing weight limitations for highway transportation'' for consistency with subsection (a) of this section and to eliminate unnecessary words.

§ 5905. Liens

(a) GENERAL.—If a person involved in the intermodal transportation of a loaded container or trailer for which a certification is required by section 5902(b) of this title is required, because of a violation of a State's gross vehicle weight laws or regulations, to post a bond or pay a fine, penalty, cost (including storage), or interest resulting from—

(1) erroneous information provided by the certifying party in the certification to the first carrier in violation of section 5903(a) of this title;

(2) the failure of the party required to provide the certification to the first carrier to provide it;

(3) the failure of a person required under section 5902(c) to forward the certification to forward it; or

(4) an error occurring in the transfer of information on the certification to another document under section 5902(b)(3) or (c),

then the person posting the bond, or paying the fine, penalty, costs (including storage), or interest has a lien against the contents equal to the amount of the bond, fine, penalty, cost (including storage), or interest incurred, until the person receives a payment of that amount from the owner or beneficial owner of the contents, or from the person responsible for making or forwarding the certification, or transferring the information from the certification to another document.

(b) LIMITATIONS.—(1) A lien under this section does not authorize a person to dispose of the contents of a loaded container or trailer until the person who tendered the container or trailer to the first carrier, or the owner or beneficial owner of the contents, is given a reasonable opportunity to establish responsibility for the bond, fine, penalty, cost (including storage), or interest. The lien shall remain in effect until the lien holder has received payment for all costs and expenses described in subsection (a) of this section.

(2) In this section, an owner or beneficial owner of the contents of a container or trailer or a person tendering a container or trailer to the first carrier is deemed not to be a person involved in the intermodal transportation of the container or trailer.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 861; Pub. L. 104–291, title II, § 206, Oct. 11, 1996, 110 Stat. 3457.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5905(a)	49:508(g)(1).	
5905(b)	49:508(g)(2)(A), (B).	

In this section, the word ''expenses'' is omitted as surplus.

In subsection (a), the words ''false'' and ''written'' are omitted as surplus and for consistency with section 5903(a) of the revised title.

In subsection (b)(1), the word ''establish'' is substituted for ''determine'' for consistency in the revised title.

In subsection (b)(2), the words ''is deemed not to be'' are substituted for ''shall not be treated as'' for consistency in the revised title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–291, § 206(1), added subsec. (a) and struck out former subsec. (a) which read as follows:

''(a) GENERAL.—If a person involved in the intermodal transportation of a loaded container or trailer for which a certification is required by section 5902(b) of this title is required under State law to post a bond or pay any fine, penalty, cost, or interest resulting from providing erroneous information in the certification to the first carrier in violation of section 5903(a) of this title, the person has a lien against the contents equal to the amount of the bond, fine, penalty, cost, or interest incurred, until the person receives a payment of that amount from the owner or beneficial owner of the contents or from the person responsible for making the certification.''

Subsec. (b)(1). Pub. L. 104–291, § 206(3), substituted ''cost (including storage), or interest. The lien shall remain in effect until the lien holder has received payment for all costs and expenses described in subsection (a) of this section.'' for ''cost, or interest.''

Pub. L. 104–291, § 206(2), inserted '', or the owner or beneficial owner of the contents,'' after ''first carrier''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5902, 5906 of this title.

§ 5906. Perishable agricultural commodities

Section 5905 of this title does not apply to a container or trailer the contents of which are perishable agricultural commodities (as defined in the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a et seq.)).

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 861; Pub. L. 104–291, title II, § 207, Oct. 11, 1996, 110 Stat. 3457.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5906	49:508(g)(2)(C).	

REFERENCES IN TEXT

The Perishable Agricultural Commodities Act, 1930, referred to in text, is act June 10, 1930, ch. 436, 46 Stat.

531, as amended, which is classified generally to chapter 20A (§ 499a et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 499a(a) of Title 7 and Tables.

AMENDMENTS

1996—Pub. L. 104–291 substituted ''Section 5905 of this title does'' for ''Sections 5904(a)(2) and 5905 of this title do''.

§ 5907. Effective date

This chapter shall take effect 180 days after the date of enactment of the Intermodal Safe Container Transportation Amendments Act of 1996.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 862; Pub. L. 104–291, title II, § 208(a), Oct. 11, 1996, 110 Stat. 3457.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5907(a)	49:508 (note).	Oct. 28, 1992, Pub. L. 102–548, § 2(d), 106 Stat. 3649.
5907(b)	49:508(a)(3) (related to effective date).	

In subsection (a), the words ''shall initiate a proceeding to issue regulations . . . within 180 days after the date of enactment of this Act'' are omitted as executed.

Subsection (b) is substituted for the source provision and made applicable to the entire chapter for clarity.

REFERENCES IN TEXT

The date of enactment of the Intermodal Safe Container Transportation Amendments Act of 1996, referred to in text, is the date of enactment of Pub. L. 104–291, which was approved Oct. 11, 1996.

AMENDMENTS

1996—Pub. L. 104–291 substituted ''Effective date'' for ''Regulations and effective date'' in section catchline and amended text generally. Prior to amendment, text read as follows:

''(a) REGULATIONS.—Not later than July 25, 1993, the Secretary of Transportation shall prescribe final regulations to enforce this chapter. The Secretary may establish by regulation exemptions to the regulations that are in the public interest and consistent with the purposes of this chapter.

''(b) EFFECTIVE DATE.—This chapter is effective on the date final regulations to enforce this chapter are prescribed.''

§ 5908. Relationship to other laws

Nothing in this chapter affects—

(1) chapter 51 (relating to transportation of hazardous material) or the regulations promulgated under that chapter; or

(2) any State highway weight or size law or regulation applicable to tractor-trailer combinations.

(Added Pub. L. 104–291, title II, § 209(a), Oct. 11, 1996, 110 Stat. 3458.)

SUBTITLE IV—INTERSTATE TRANSPORTATION

PART A—RAIL

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105.	**JURISDICTION**	**10501**
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115.	**FEDERAL-STATE RELATIONS**	**11501**
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119.	**CIVIL AND CRIMINAL PENALTIES**	**11901**

PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

Chapter		Sec.
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135.	**JURISDICTION**	**13501**
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Chapter		Sec.
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153.	**JURISDICTION**	**15301**
155.	**RATES**	**15501**
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159.	**ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES**	**15901**
161.	**CIVIL AND CRIMINAL PENALTIES**	**16101**

PRIOR PROVISIONS

A prior subtitle IV, consisting of chapters 101 to 119, related to interstate commerce, prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

AMENDMENTS

1997—Pub. L. 105–102, § 2(5), Nov. 20, 1997, 111 Stat. 2204, struck out ''AND TARIFFS'' after ''RATES'' in item for chapter 155.

SUBTITLE REFERRED TO IN OTHER SECTIONS

This subtitle is referred to in sections 521, 703, 721, 722, 723, 724, 727, 24301, 28301, 41309, 41502 of this title; title 7 section 225; title 11 sections 1166, 1169; title 15 sections 19, 21, 26, 44, 1681s, 1691c, 1692*l*; title 16 section 813; title 18 section 2341; title 28 sections 2321, 2323; title 29 section 1841; title 33 section 1507; title 42 sections 4916, 4917; title 45 sections 151, 157, 741, 791, 912, 1007, 1103, 1104, 1112; title 46 App. section 884; title 47 section 601; title 48 section 751.

PART A—RAIL

CHAPTER 101—GENERAL PROVISIONS

Sec.
10101. Rail transportation policy.
10102. Definitions.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 22101, 22107 of this title; title 26 sections 168, 281, 3231, 7701; title 29 section 213; title 45 sections 231, 351, 661, 702, 741, 744, 802, 1207.

§ 10101. Rail transportation policy

In regulating the railroad industry, it is the policy of the United States Government—

(1) to allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail;

(2) to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required;

(3) to promote a safe and efficient rail transportation system by allowing rail carriers to earn adequate revenues, as determined by the Board;

(4) to ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers and with other modes, to meet the needs of the public and the national defense;

(5) to foster sound economic conditions in transportation and to ensure effective competition and coordination between rail carriers and other modes;

(6) to maintain reasonable rates where there is an absence of effective competition and where rail rates provide revenues which exceed the amount necessary to maintain the rail system and to attract capital;

(7) to reduce regulatory barriers to entry into and exit from the industry;

(8) to operate transportation facilities and equipment without detriment to the public health and safety;

(9) to encourage honest and efficient management of railroads;

(10) to require rail carriers, to the maximum extent practicable, to rely on individual rate increases, and to limit the use of increases of general applicability;

(11) to encourage fair wages and safe and suitable working conditions in the railroad industry;

(12) to prohibit predatory pricing and practices, to avoid undue concentrations of market power, and to prohibit unlawful discrimination;

(13) to ensure the availability of accurate cost information in regulatory proceedings, while minimizing the burden on rail carriers of developing and maintaining the capability of providing such information;

(14) to encourage and promote energy conservation; and

(15) to provide for the expeditious handling and resolution of all proceedings required or permitted to be brought under this part.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 805.)

PRIOR PROVISIONS

Prior sections 10101 and 10101a were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10101, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1337; Pub. L. 96–296, §4, July 1, 1980, 94 Stat. 793; Pub. L. 96–448, title I, §101(b), Oct. 14, 1980, 94 Stat. 1898; Pub. L. 97–261, §5, Sept. 20, 1982, 96 Stat. 1103; Pub. L. 103–311, title II, §204, Aug. 26, 1994, 108 Stat. 1683, related to transportation policy. See sections 13101 and 15101 of this title.

Section 10101a, added Pub. L. 96–448, title I, §101(a), Oct. 14, 1980, 94 Stat. 1897, related to rail transportation policy.

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–521, §1, Oct. 22, 1986, 100 Stat. 2993, provided that: ''This Act [see Tables for classification] may be cited as the 'Surface Freight Forwarder Deregulation Act of 1986'.''

SHORT TITLE OF 1982 AMENDMENT

Section 1 of Pub. L. 97–261 provided: ''That this Act [see Tables for classification] may be cited as the 'Bus Regulatory Reform Act of 1982'.''

SHORT TITLE OF 1980 AMENDMENTS

Pub. L. 96–454, §1, Oct. 15, 1980, 94 Stat. 2011, provided: ''That this Act [see Tables for classification] may be cited as the 'Household Goods Transportation Act of 1980'.''

Section 1 of Pub. L. 96–448 provided that: ''This Act [see Tables for classification] may be cited as the 'Staggers Rail Act of 1980'.''

Section 1 of Pub. L. 96–296 provided: ''That this Act [see Tables for classification] may be cited as the 'Motor Carrier Act of 1980'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 302, 10502, 10706 of this title; title 33 section 1803.

§ 10102. Definitions

In this part—

(1) ''Board'' means the Surface Transportation Board;

(2) ''car service'' includes (A) the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, other vehicles, and special types of equipment used in the transportation of property by a rail carrier, and (B) the supply of trains by a rail carrier;

(3) ''control'', when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by (A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or (B) any other means;

(4) ''person'', in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person;

(5) ''rail carrier'' means a person providing common carrier railroad transportation for compensation, but does not include street, suburban, or interurban electric railways not operated as part of the general system of rail transportation;

(6) ''railroad'' includes—

(A) a bridge, car float, lighter, ferry, and intermodal equipment used by or in connection with a railroad;

(B) the road used by a rail carrier and owned by it or operated under an agreement; and

(C) a switch, spur, track, terminal, terminal facility, and a freight depot, yard, and ground, used or necessary for transportation;

(7) ''rate'' means a rate or charge for transportation;

(8) ''State'' means a State of the United States and the District of Columbia;

(9) ''transportation'' includes—

(A) a locomotive, car, vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, by rail, regardless of ownership or an agreement concerning use; and

(B) services related to that movement, including receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, and interchange of passengers and property; and

(10) ''United States'' means the States of the United States and the District of Columbia.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 806.)

PRIOR PROVISIONS

Prior sections 10102 and 10103 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10102, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1338; Pub. L. 96–296, §10(a)(1), July 1, 1980, 94 Stat. 799; Pub. L. 96–454, §3(a), Oct. 15, 1980, 94 Stat. 2011; Pub. L. 97–261, §6(d)(1), Sept. 20, 1982, 96 Stat. 1107; Pub. L. 99–521, §4, Oct. 22, 1986, 100 Stat. 2993; Pub. L. 103–272, §5(m)(13), July 5, 1994, 108 Stat. 1377; Pub. L. 103–311, title II, §§205(b), 206(f), Aug. 26, 1994, 108 Stat. 1683, 1686, defined terms used in this subtitle. See sections 10102, 13102, and 15102 of this title.

Section 10103, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1340; Pub. L. 96–448, title II, §214(c)(2), Oct. 14, 1980, 94 Stat. 1915, provided that the remedies under this subtitle were cumulative. See sections 10501, 13103, and 15103 of this title.

A prior chapter 103, consisting of sections 10301 to 10311, 10321, 10322, 10324, 10326 to 10330, 10341 to 10344, 10361 to 10364, and 10381 to 10388, was omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a). See chapter 7 of this title.

Section 10301, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1341; Pub. L. 97–253, title V, §502(b), (e), (h)(1), Sept. 8, 1982, 96 Stat. 806, related to organization, membership, administration, seal, and expenses of Interstate Commerce Commission.

Section 10302, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1342, related to divisions of Commission.

Section 10303, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1342, related to Secretary and public records of Commission.

Section 10304, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1342, related to employee boards of Commission.

Section 10305, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1342, related to delegation of authority by Commission.

Section 10306, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1343, related to conduct of Commission proceedings.

Section 10307, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1343, related to offices and sessions of Commission.

Section 10308, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1343, related to admission to practice before Commission.

Section 10309, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1344; Pub. L. 103–437, §18, Nov. 2, 1994, 108 Stat. 4596, related to access to Commission records by congressional committees.

Section 10310, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1344, related to reports of official Commission actions.

Section 10311, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1345, required Commission to submit annual report to Congress.

Section 10321, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1345; Pub. L. 97–261, §24, Sept. 20, 1982, 96 Stat. 1124; Pub. L. 103–272, §4(j)(12), July 5, 1994, 108 Stat. 1368, related to powers of Commission.

Section 10322, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1346; Pub. L. 96–296, §25(a), July 1, 1980, 94 Stat. 816; Pub. L. 96–454, §5(b), Oct. 15, 1980, 94 Stat. 2014; Pub. L. 97–261, §§6(e), 16(c), 17(b), 28(a), Sept. 20, 1982, 96 Stat. 1107, 1117, 1119, 1128; Pub. L. 98–554, title II, §226(c)(1), Oct. 30, 1984, 98 Stat. 2851; Pub. L. 103–272, §5(m)(14), July 5, 1994, 108 Stat. 1377, related to Commission action and appellate procedure in non-rail proceedings.

A prior section 10323, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1346, related to rehearing, reargument, and reconsideration in nonrail proceedings, prior to repeal by Pub. L. 96–296, §25(b), July 1, 1980, 94 Stat. 818.

Section 10324, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1347; Pub. L. 96–258, §1(1), June 3, 1980, 94 Stat. 425; Pub. L. 96–296, §25(c), July 1, 1980, 94 Stat. 818, related to taking effect, duration, and modification of Commission actions.

A prior section 10325, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1347, provided for judicial review in nonrail proceedings, prior to repeal by Pub. L. 96–296, §25(d), July 1, 1980, 94 Stat. 818.

Section 10326, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1348, related to limitations in rulemaking proceedings related to rail carriers.

Section 10327, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1348; Pub. L. 96–258, §1(2), June 3, 1980, 94 Stat. 425; Pub. L. 96–296, §25(e), July 1, 1980, 94 Stat. 818; Pub. L. 97–375, title I, §113, Dec. 21, 1982, 96 Stat. 1821; Pub. L. 104–66, title II, §2101, Dec. 21, 1995, 109 Stat. 730, related to Commission action and appellate procedure in rail carrier proceedings.

Section 10328, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1350; Pub. L. 97–261, §28(b), Sept. 20, 1982, 96 Stat. 1128; Pub. L. 99–521, §5(a), Oct. 22, 1986, 100 Stat. 2994, related to intervention in Commission proceedings.

Section 10329, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1351; Pub. L. 99–521, §5(b), Oct. 22, 1986, 100 Stat. 2994, related to service of notice in Commission proceedings.

Section 10330, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1352, related to service of process in court proceedings.

Section 10341, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1352, authorized Commission to refer matters to joint boards.

Section 10342, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1353, related to establishment and membership of joint boards.

Section 10343, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1353, related to powers of joint boards.

Section 10344, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1354; Pub. L. 96–296, §36, July 1, 1980, 94 Stat. 826, related to administration and proceedings of joint boards.

Section 10361, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1355, related to Rail Services Planning Office.

Section 10362, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1355; Pub. L. 98–216, §2(5)–(7), Feb. 14, 1984, 98 Stat. 5; Pub. L. 99–509, title IV, §4033(c)(7), Oct. 21, 1986, 100 Stat. 1909; Pub. L. 103–272, §4(j)(13), July 5, 1994, 108 Stat. 1368, related to duties of Rail Services Planning Office.

Section 10363, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1356; Pub. L. 103–272, §4(j)(14), July 5, 1994, 108 Stat. 1369, related to appointment and duties of Director of Rail Services Planning Office.

Section 10364, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1356; Pub. L. 103–272, §5(m)(15), July 5, 1994, 108 Stat. 1377, related to powers of and assistance to Director.

Section 10381, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1357, related to Office of Rail Public Counsel.

Section 10382, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1357; Pub. L. 96–258, §1(3), June 3, 1980, 94 Stat. 425, related to duties and standing of Office of Rail Public Counsel.

Section 10383, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1357; Pub. L. 103–272, §4(j)(14), July 5, 1994, 108 Stat. 1369, related to duties and appointment of Director of Office of Rail Public Counsel.

Section 10384, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1358, related to staff of Office of Rail Public Counsel.

Section 10385, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1358; Pub. L. 103–272, §5(m)(15), July 5, 1994, 108 Stat. 1377, related to powers of Office of Rail Public Counsel.

Section 10386, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1358, related to reports concerning activities of Office of Rail Public Counsel.

Section 10387, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1358, related to budget requests and estimates of Office of Rail Public Counsel.

Section 10388, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1358; Pub. L. 96–73, title III, § 301, Sept. 29, 1979, 93 Stat. 557, authorized appropriations for Office of Rail Public Counsel for fiscal year ending Sept. 30, 1980.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 501 of this title; title 45 section 1344.

CHAPTER 105—JURISDICTION

Sec.
10501. General jurisdiction.
10502. Authority to exempt rail carrier transportation.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 13503, 14706 of this title.

§ 10501. General jurisdiction

(a)(1) Subject to this chapter, the Board has jurisdiction over transportation by rail carrier that is—

(A) only by railroad; or

(B) by railroad and water, when the transportation is under common control, management, or arrangement for a continuous carriage or shipment.

(2) Jurisdiction under paragraph (1) applies only to transportation in the United States between a place in—

(A) a State and a place in the same or another State as part of the interstate rail network;

(B) a State and a place in a territory or possession of the United States;

(C) a territory or possession of the United States and a place in another such territory or possession;

(D) a territory or possession of the United States and another place in the same territory or possession;

(E) the United States and another place in the United States through a foreign country; or

(F) the United States and a place in a foreign country.

(b) The jurisdiction of the Board over—

(1) transportation by rail carriers, and the remedies provided in this part with respect to rates, classifications, rules (including car service, interchange, and other operating rules), practices, routes, services, and facilities of such carriers; and

(2) the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks, or facilities, even if the tracks are located, or intended to be located, entirely in one State,

is exclusive. Except as otherwise provided in this part, the remedies provided under this part with respect to regulation of rail transportation are exclusive and preempt the remedies provided under Federal or State law.

(c)(1) In this subsection—

(A) the term ''local governmental authority''—

(i) has the same meaning given that term by section 5302(a) of this title; and

(ii) includes a person or entity that contracts with the local governmental authority to provide transportation services; and

(B) the term ''mass transportation'' means transportation services described in section 5302(a) of this title that are provided by rail.

(2) Except as provided in paragraph (3), the Board does not have jurisdiction under this part over mass transportation provided by a local governmental authority.

(3)(A) Notwithstanding paragraph (2) of this subsection, a local governmental authority, described in paragraph (2), is subject to applicable laws of the United States related to—

(i) safety;

(ii) the representation of employees for collective bargaining; and

(iii) employment, retirement, annuity, and unemployment systems or other provisions related to dealings between employees and employers.

(B) The Board has jurisdiction under sections 11102 and 11103 of this title over transportation provided by a local governmental authority only if the Board finds that such governmental authority meets all of the standards and requirements for being a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission that were in effect immediately before January 1, 1996. The enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of employees and employers by the Railway Labor Act, the Railroad Retirement Act of 1974, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 807; amended Pub. L. 104–287, § 5(21), Oct. 11, 1996, 110 Stat. 3390.)

REFERENCES IN TEXT

The ICC Termination Act of 1995, referred to in subsec. (c)(3)(B), 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.

The Railway Labor Act, referred to in subsec. (c)(3)(B), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended, which is classified principally to chapter 8 (§ 151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

The Railroad Retirement Act of 1974, referred to in subsec. (c)(3)(B), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93–445, title I, § 101, Oct. 16, 1974, 88 Stat. 1305, which is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

The Railroad Retirement Tax Act, referred to in subsec. (c)(3)(B), is act Aug. 16, 1954, ch. 736, §§ 3201, 3202, 3211, 3212, 3221, and 3231 to 3233, 68A Stat. 431, as amended, which is classified generally to chapter 22 (§ 3201 et seq.) of Title 26, Internal Revenue Code. For complete classification of this Act to the Code, see section 3233 of Title 26 and Tables.

The Railroad Unemployment Insurance Act, referred to in subsec. (c)(3)(B), is act June 25, 1938, ch. 680, 52

Stat. 1094, as amended, which is classified principally to chapter 11 (§ 351 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 367 of Title 45 and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10501 and 10504 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

A prior section 10501, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1359; Pub. L. 96–448, title II, § 214(c)(3)–(5), Oct. 14, 1980, 94 Stat. 1915; Pub. L. 103–272, § 4(j)(15), July 5, 1994, 108 Stat. 1369, related to jurisdiction of the Interstate Commerce Commission, prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a). See sections 10501 and 15301 of this title.

AMENDMENTS

1996—Subsec. (c)(3)(B). Pub. L. 104–287 substituted ''January 1, 1996'' for ''the effective date of the ICC Termination Act of 1995''.

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

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.

§ 10502. Authority to exempt rail carrier transportation

(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Board under this part, the Board, to the maximum extent consistent with this part, shall exempt a person, class of persons, or a transaction or service whenever the Board finds that the application in whole or in part of a provision of this part—

(1) is not necessary to carry out the transportation policy of section 10101 of this title; and

(2) either—

(A) the transaction or service is of limited scope; or

(B) the application in whole or in part of the provision is not needed to protect shippers from the abuse of market power.

(b) The Board may, where appropriate, begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party. The Board shall, within 90 days after receipt of any such application, determine whether to begin an appropriate proceeding. If the Board decides not to begin a class exemption proceeding, the reasons for the decision shall be published in the Federal Register. Any proceeding begun as a result of an application under this subsection shall be completed within 9 months after it is begun.

(c) The Board may specify the period of time during which an exemption granted under this section is effective.

(d) The Board may revoke an exemption, to the extent it specifies, when it finds that application in whole or in part of a provision of this part to the person, class, or transportation is necessary to carry out the transportation policy of section 10101 of this title. The Board shall, within 90 days after receipt of a request for revocation under this subsection, determine whether to begin an appropriate proceeding. If the Board decides not to begin a proceeding to revoke a class exemption, the reasons for the decision shall be published in the Federal Register. Any proceeding begun as a result of a request under this subsection shall be completed within 9 months after it is begun.

(e) No exemption order issued pursuant to this section shall operate to relieve any rail carrier from an obligation to provide contractual terms for liability and claims which are consistent with the provisions of section 11706 of this title. Nothing in this subsection or section 11706 of this title shall prevent rail carriers from offering alternative terms nor give the Board the authority to require any specific level of rates or services based upon the provisions of section 11706 of this title.

(f) The Board may exercise its authority under this section to exempt transportation that is provided by a rail carrier as part of a continuous intermodal movement.

(g) The Board may not exercise its authority under this section to relieve a rail carrier of its obligation to protect the interests of employees as required by this part.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 808.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10505 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

Prior sections 10502 to 10505, 10521 to 10531, 10541 to 10544, and 10561, were omitted in the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

Section 10502, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1360, related to Interstate Commerce Commission jurisdiction over express carrier transportation.

Section 10503, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1360, related to railroad and water transportation connections and rates. See section 10703 of this title.

Section 10504, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1360; Pub. L. 97–449, § 4(b)(4), Jan. 12, 1983, 96 Stat. 2441; Pub. L. 103–272, § 4(j)(16), July 5, 1994, 108 Stat. 1369, related to jurisdiction of Commission over mass transportation provided by local governments. See section 10501 of this title.

Section 10505, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1361; Pub. L. 96–448, title II, § 213, Oct. 14, 1980, 94 Stat. 1912; Pub. L. 103–311, title II, § 205(a), (c)(1), Aug. 26, 1994, 108 Stat. 1683, 1684, related to authority of Commission to exempt rail carrier and motor carrier transportation. See sections 10502 and 13541 of this title.

Section 10521, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1361; Pub. L. 96–296, § 31(b), July 1, 1980, 94 Stat. 824; Pub. L. 97–261, § 6(f), Sept. 20, 1982, 96 Stat. 1107; Pub. L. 99–521, § 6(a), Oct. 22, 1986, 100 Stat. 2994; Pub. L. 103–305, title VI, § 601(b)(2)(C), Aug. 23, 1994, 108 Stat. 1606; Pub. L. 103–311, title II, § 211(b)(1), Aug. 26, 1994, 108 Stat. 1689, related to jurisdiction of Commission over motor carrier transportation. See section 13501 of this title.

Section 10522, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1362, related to exempt transportation between Alaska and other States. See section 13502 of this title.

Section 10523, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1362; Pub. L. 99–521, § 6(b), Oct. 22, 1986, 100 Stat. 2994, related to exempt motor vehicle transportation in terminal areas. See section 13503 of this title.

Section 10524, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1363; Pub. L. 96–296, § 9, July 1, 1980, 94 Stat. 798, related to Commission jurisdiction over transportation furthering a primary business. See section 13505 of this title.

Section 10525, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1363; Pub. L. 96–258, § 1(4), June 3, 1980, 94 Stat. 425; Pub. L. 97–261, § 30, Sept. 20, 1982, 96 Stat. 1128, related to exempt motor carrier transportation entirely in one State. See section 13504 of this title.

Section 10526, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1364; Pub. L. 96–258, § 1(5), June 3, 1980, 94 Stat. 425; Pub. L. 96–296, §§ 7, 21(a), 24(a), July 1, 1980, 94 Stat. 797, 812, 814; Pub. L. 96–454, § 11(a), Oct. 15, 1980, 94 Stat. 2023; Pub. L. 97–261, § 14(d), Sept. 20, 1982, 96 Stat. 1114; Pub. L. 97–377, § 152, Dec. 21, 1982, 96 Stat. 1918; Pub. L. 97–449, § 5(g)(1), Jan. 12, 1983, 96 Stat. 2442; Pub. L. 98–216, § 2(8), Feb. 14, 1984, 98 Stat. 5; Pub. L. 98–554, title II, § 227(c), Oct. 30, 1984, 98 Stat. 2852; Pub. L. 103–272, § 4(j)(17), July 5, 1994, 108 Stat. 1369, related to miscellaneous motor carrier transportation exemptions. See section 13506 of this title.

Section 10527, added Pub. L. 96–296, § 16(a), July 1, 1980, 94 Stat. 810; amended Pub. L. 103–272, § 5(m)(16), July 5, 1994, 108 Stat. 1377, related to written contracts pertaining to certain interstate movements by motor vehicle.

Section 10528, added Pub. L. 96–296, § 21(b)(1), July 1, 1980, 94 Stat. 812; amended Pub. L. 96–454, § 11(b), Oct. 15, 1980, 94 Stat. 2023; Pub. L. 103–272, § 5(m)(17), July 5, 1994, 108 Stat. 1377, related to mixed loads of regulated and unregulated property. See section 13507 of this title.

Section 10529, added Pub. L. 96–296, § 24(b)(1), July 1, 1980, 94 Stat. 814; amended Pub. L. 103–272, § 5(m)(18), July 5, 1994, 108 Stat. 1377, related to authority of Commission over cooperative associations. See section 13508 of this title.

Section 10530, added Pub. L. 98–554, title II, § 226(a)(1), Oct. 30, 1984, 98 Stat. 2848; amended Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–690, title IX, § 9111(a)–(f), Nov. 18, 1988, 102 Stat. 4531–4533; Pub. L. 103–272, § 4(j)(18), (*o*), July 5, 1994, 108 Stat. 1369, 1371, related to certificates of registration for certain foreign carriers. See section 13902 of this title.

Section 10531, added Pub. L. 103–272, § 3(1), July 5, 1994, 108 Stat. 1360, related to mass transportation exemption from Commission jurisdiction.

Section 10541, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1365, related to jurisdiction of Commission over transportation by water carriers. See section 13521 of this title.

Section 10542, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1366; Pub. L. 98–89, § 3(b), Aug. 26, 1983, 97 Stat. 599; Pub. L. 98–216, § 2(9), (10), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103–272, § 5(m)(19), July 5, 1994, 108 Stat. 1377, related to exemption of transportation by water carriers of commodities in bulk from Commission jurisdiction.

Section 10543, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1367, related to exemption of certain incidental water transportation from jurisdiction of Commission.

Section 10544, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1368; Pub. L. 96–258, § 1(6), June 3, 1980, 94 Stat. 425; Pub. L. 97–449, § 5(g)(2), Jan. 12, 1983, 96 Stat. 2443; Pub. L. 98–216, § 2(11), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103–272, § 5(m)(19), July 5, 1994, 108 Stat. 1377, related to exemption of certain miscellaneous water carrier transportation from Commission jurisdiction.

Section 10561, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1369; Pub. L. 99–521, § 6(c), Oct. 22, 1986, 100 Stat. 2994; Pub. L. 103–272, § 5(m)(20), July 5, 1994, 108 Stat. 1377, related to jurisdiction of Commission over services of household goods freight forwarders. See section 13531 of this title.

A prior section 10562, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1369; Pub. L. 97–449, § 5(g)(3), Jan. 12, 1983, 96 Stat. 2443, related to exempt freight forwarder service, prior to repeal by Pub. L. 99–521, §§ 6(d)(1), 15, Oct. 22, 1986, 100 Stat. 2994, 2999, effective 60 days after Oct. 22, 1986.

CHAPTER 107—RATES

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 10907 of this title.

SUBCHAPTER I—GENERAL AUTHORITY

§ 10701. Standards for rates, classifications, through routes, rules, and practices

(a) A through route established by a rail carrier must be reasonable. Divisions of joint rates by rail carriers must be made without unreasonable discrimination against a participating carrier and must be reasonable.

(b) A rail carrier providing transportation subject to the jurisdiction of the Board under this part may not discriminate in its rates against a connecting line of another rail carrier providing transportation subject to the jurisdiction of the Board under this part or unreasonably discriminate against that line in the distribution of traffic that is not routed specifically by the shipper.

(c) Except as provided in subsection (d) of this section and unless a rate is prohibited by a provision of this part, a rail carrier providing transportation subject to the jurisdiction of the Board under this part may establish any rate for transportation or other service provided by the rail carrier.

(d)(1) If the Board determines, under section 10707 of this title, that a rail carrier has market dominance over the transportation to which a particular rate applies, the rate established by such carrier for such transportation must be reasonable.

(2) In determining whether a rate established by a rail carrier is reasonable for purposes of this section, the Board shall give due consideration to—

(A) the amount of traffic which is transported at revenues which do not contribute to going concern value and the efforts made to minimize such traffic;

(B) the amount of traffic which contributes only marginally to fixed costs and the extent

to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

(C) the carrier's mix of rail traffic to determine whether one commodity is paying an unreasonable share of the carrier's overall revenues,

recognizing the policy of this part that rail carriers shall earn adequate revenues, as established by the Board under section 10704(a)(2) of this title.

(3) The Board shall, within one year after January 1, 1996, complete the pending Interstate Commerce Commission non-coal rate guidelines proceeding to establish a simplified and expedited method for determining the reasonableness of challenged rail rates in those cases in which a full stand-alone cost presentation is too costly, given the value of the case.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 809; amended Pub. L. 104–287, §5(22), Oct. 11, 1996, 110 Stat. 3390.)

PRIOR PROVISIONS

Prior sections 10701 and 10701a were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10701, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1371; Pub. L. 96–296, §13(a), July 1, 1980, 94 Stat. 803; Pub. L. 96–448, title II, §201(b)(1), (2), Oct. 14, 1980, 94 Stat. 1899, 1900; Pub. L. 97–261, §9(a), Sept. 20, 1982, 96 Stat. 1109; Pub. L. 103–180, §2(a), (b), (g), Dec. 3, 1993, 107 Stat. 2044, 2047, 2049, related to standards for rates, classifications, through routes, rules, and practices. See sections 10701, 13701, 13709, and 15501 of this title.

Section 10701a, added Pub. L. 96–448, title II, §201(a), Oct. 14, 1980, 94 Stat. 1898; amended Pub. L. 103–272, §4(j)(19), July 5, 1994, 108 Stat. 1369, related to standards for rates for rail carriers. See section 10701 of this title.

AMENDMENTS

1996—Subsec. (d)(3). Pub. L. 104–287 substituted ''January 1, 1996'' for ''the effective date of this paragraph''.

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10704, 10705 of this title.

§ 10702. Authority for rail carriers to establish rates, classifications, rules, and practices

A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part shall establish reasonable—

(1) rates, to the extent required by section 10707, divisions of joint rates, and classifications for transportation and service it may provide under this part; and

(2) rules and practices on matters related to that transportation or service.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 810.)

PRIOR PROVISIONS

A prior section 10702, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1372; Pub. L. 103–180, §6(a), Dec. 3, 1993, 107 Stat. 2050; Pub. L. 103–311, title II, §206(a), Aug. 26, 1994, 108 Stat. 1684, related to authority for carriers to establish rates, classifications, rules, and practices, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 10702 and 15502 of this title.

§ 10703. Authority for rail carriers to establish through routes

Rail carriers providing transportation subject to the jurisdiction of the Board under this part shall establish through routes (including physical connections) with each other and with water carriers providing transportation subject to chapter 137, shall establish rates and classifications applicable to those routes, and shall establish rules for their operation and provide—

(1) reasonable facilities for operating the through route; and

(2) reasonable compensation to persons entitled to compensation for services related to the through route.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 810.)

PRIOR PROVISIONS

A prior section 10703, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1372; Pub. L. 96–296, §22(a), (h), July 1, 1980, 94 Stat. 812, 814; Pub. L. 97–449, §5(g)(5), Jan. 12, 1983, 96 Stat. 2443; Pub. L. 98–216, §2(11), Feb. 14, 1984, 98 Stat. 5; Pub. L. 99–521, §7(a), Oct. 22, 1986, 100 Stat. 2994; Pub. L. 103–272, §5(m)(21), July 5, 1994, 108 Stat. 1377, related to authority for carriers to establish through routes, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 10703 and 13705 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10705 of this title.

§ 10704. Authority and criteria: rates, classifications, rules, and practices prescribed by Board

(a)(1) When the Board, after a full hearing, decides that a rate charged or collected by a rail carrier for transportation subject to the jurisdiction of the Board under this part, or that a classification, rule, or practice of that carrier, does or will violate this part, the Board may prescribe the maximum rate, classification, rule, or practice to be followed. The Board may order the carrier to stop the violation. When a rate, classification, rule, or practice is prescribed under this subsection, the affected carrier may not publish, charge, or collect a different rate and shall adopt the classification and observe the rule or practice prescribed by the Board.

(2) The Board shall maintain and revise as necessary standards and procedures for establishing revenue levels for rail carriers providing transportation subject to its jurisdiction under this part that are adequate, under honest, economical, and efficient management, to cover total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business. The Board shall make an adequate and continuing effort to assist those carriers in attaining revenue levels prescribed under this paragraph. Revenue levels established under this paragraph should—

(A) provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation; and

(B) attract and retain capital in amounts adequate to provide a sound transportation system in the United States.

(3) On the basis of the standards and procedures described in paragraph (2), the Board shall annually determine which rail carriers are earning adequate revenues.

(b) The Board may begin a proceeding under this section only on complaint. A complaint under subsection (a) of this section must be made under section 11701 of this title, but the proceeding may also be in extension of a complaint pending before the Board.

(c) In a proceeding to challenge the reasonableness of a rate, the Board shall make its determination as to the reasonableness of the challenged rate—

(1) within 9 months after the close of the administrative record if the determination is based upon a stand-alone cost presentation; or

(2) within 6 months after the close of the administrative record if the determination is based upon the methodology adopted by the Board pursuant to section 10701(d)(3).

(d) Within 9 months after January 1, 1996, the Board shall establish procedures to ensure expeditious handling of challenges to the reasonableness of railroad rates. The procedures shall include appropriate measures for avoiding delay in the discovery and evidentiary phases of such proceedings and exemption or revocation proceedings, including appropriate sanctions for such delay, and for ensuring prompt disposition of motions and interlocutory administrative appeals.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 810; amended Pub. L. 104–287, §5(23), Oct. 11, 1996, 110 Stat. 3390.)

PRIOR PROVISIONS

A prior section 10704, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1373; Pub. L. 96–296, §13(b), July 1, 1980, 94 Stat. 803; Pub. L. 96–448, title II, §205(b), Oct. 14, 1980, 94 Stat. 1906; Pub. L. 97–261, §9(b), Sept. 20, 1982, 96 Stat. 1109; Pub. L. 99–521, §7(b), Oct. 22, 1986, 100 Stat. 2994, related to authority and criteria for rates, classifications, rules, and practices prescribed by Interstate Commerce Commission, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 10704, 13701, and 15503 of this title.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–287 substituted ''January 1, 1996'' for ''the effective date of the ICC Termination Act of 1995''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10701 of this title.

§ 10705. Authority: through routes, joint classifications, rates, and divisions prescribed by Board

(a)(1) The Board may, and shall when it considers it desirable in the public interest, prescribe through routes, joint classifications, joint rates, the division of joint rates, and the conditions under which those routes must be operated, for a rail carrier providing transportation subject to the jurisdiction of the Board under this part.

(2) The Board may require a rail carrier to include in a through route substantially less than the entire length of its railroad and any intermediate railroad operated with it under common management or control if that intermediate railroad lies between the terminals of the through route only when—

(A) required under section 10741, 10742, or 11102 of this title;

(B) inclusion of those lines would make the through route unreasonably long when compared with a practicable alternative through route that could be established; or

(C) the Board decides that the proposed through route is needed to provide adequate, and more efficient or economic, transportation.

The Board shall give reasonable preference, subject to this subsection, to the rail carrier originating the traffic when prescribing through routes.

(b) The Board shall prescribe the division of joint rates to be received by a rail carrier providing transportation subject to its jurisdiction under this part when it decides that a division of joint rates established by the participating carriers under section 10703 of this title, or under a decision of the Board under subsection (a) of this section, does or will violate section 10701 of this title.

(c) If a division of a joint rate prescribed under a decision of the Board is later found to violate section 10701 of this title, the Board may decide what division would have been reasonable and order adjustment to be made retroactive to the date the complaint was filed, the date the order for an investigation was made, or a later date that the Board decides is justified. The Board may make a decision under this subsection effective as part of its original decision.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 811.)

PRIOR PROVISIONS

Prior sections 10705 and 10705a were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10705, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1375; Pub. L. 96–296, §22(b)–(g), July 1, 1980, 94 Stat. 813; Pub. L. 96–448, title II, §218, Oct. 14, 1980, 94 Stat. 1925; Pub. L. 97–449, §5(g)(4), Jan. 12, 1983, 96 Stat. 2443, related to authority for through routes, joint classifications, rates, and divisions prescribed by Interstate Commerce Commission. See sections 10705 and 13701 of this title.

Section 10705a, added Pub. L. 96–448, title II, §217(a)(1), Oct. 14, 1980, 94 Stat. 1916; amended Pub. L. 103–272, §4(j)(20), July 5, 1994, 108 Stat. 1369, related to joint rate surcharges and cancellations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10907 of this title.

§ 10706. Rate agreements: exemption from antitrust laws

(a)(1) In this subsection—

(A) the term ''affiliate'' means a person controlling, controlled by, or under common control or ownership with another person and ''ownership'' refers to equity holdings in a business entity of at least 5 percent;

(B) the term ''single-line rate'' refers to a rate or allowance proposed by a single rail carrier that is applicable only over its line and for which the transportation (exclusive of terminal services by switching, drayage or other terminal carriers or agencies) can be provided by that carrier; and

(C) the term ''practicably participates in the movement'' shall have such meaning as the Board shall by regulation prescribe.

(2)(A) A rail carrier providing transportation subject to the jurisdiction of the Board under this part that is a party to an agreement of at least 2 rail carriers that relates to rates (including charges between rail carriers and compensation paid or received for the use of facilities and equipment), classifications, divisions, or rules related to them, or procedures for joint consideration, initiation, publication, or establishment of them, shall apply to the Board for approval of that agreement under this subsection. The Board shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy of section 10101 of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of its approval. If the Board approves the agreement, it may be made and carried out under its terms and under the conditions required by the Board, and the Sherman Act (15 U.S.C. 1, et seq.), the Clayton Act (15 U.S.C. 12, et seq.), the Federal Trade Commission Act (15 U.S.C. 41, et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a) do not apply to parties and other persons with respect to making or carrying out the agreement. However, the Board may not approve or continue approval of an agreement when the conditions required by it are not met or if it does not receive a verified statement under subparagraph (B) of this paragraph.

(B) The Board may approve an agreement under subparagraph (A) of this paragraph only when the rail carriers applying for approval file a verified statement with the Board. Each statement must specify for each rail carrier that is a party to the agreement—

(i) the name of the carrier;

(ii) the mailing address and telephone number of its headquarter's office; and

(iii) the names of each of its affiliates and the names, addresses, and affiliates of each of its officers and directors and of each person, together with an affiliate, owning or controlling any debt, equity, or security interest in it having a value of at least $1,000,000.

(3)(A) An organization established or continued under an agreement approved under this subsection shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed. Such an organization may not—

(i) permit a rail carrier to discuss, to participate in agreements related to, or to vote on single-line rates proposed by another rail carrier, except that for purposes of general rate increases and broad changes in rates, classifications, rules, and practices only, if the Board finds at any time that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part;

(ii) permit a rail carrier to discuss, to participate in agreements related to, or to vote on rates related to a particular interline movement unless that rail carrier practicably participates in the movement; or

(iii) if there are interline movements over two or more routes between the same end points, permit a carrier to discuss, to participate in agreements related to, or to vote on rates except with a carrier which forms part of a particular single route. If the Board finds at any time that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part.

(B)(i) In any proceeding in which a party alleges that a rail carrier voted or agreed on a rate or allowance in violation of this subsection, that party has the burden of showing that the vote or agreement occurred. A showing of parallel behavior does not satisfy that burden by itself.

(ii) In any proceeding in which it is alleged that a carrier was a party to an agreement, conspiracy, or combination in violation of a Federal law cited in subsection (a)(2)(A) of this section or of any similar State law, proof of an agreement, conspiracy, or combination may not be inferred from evidence that two or more rail carriers acted together with respect to an interline rate or related matter and that a party to such action took similar action with respect to a rate or related matter on another route or traffic. In any proceeding in which such a violation is alleged, evidence of a discussion or agreement between or among such rail carrier and one or more other rail carriers, or of any rate or other action resulting from such discussion or agreement, shall not be admissible if the discussion or agreement—

(I) was in accordance with an agreement approved under paragraph (2) of this subsection; or

(II) concerned an interline movement of the rail carrier, and the discussion or agreement would not, considered by itself, violate the laws referred to in the first sentence of this clause.

In any proceeding before a jury, the court shall determine whether the requirements of subclause (I) or (II) are satisfied before allowing the introduction of any such evidence.

(C) An organization described in subparagraph (A) of this paragraph shall provide that transcripts or sound recordings be made of all meetings, that records of votes be made, and that such transcripts or recordings and voting records be submitted to the Board and made available to other Federal agencies in connection with their statutory responsibilities over rate bureaus, except that such material shall be kept confidential and shall not be subject to disclosure under section 552 of title 5, United States Code.

(4) Notwithstanding any other provision of this subsection, one or more rail carriers may enter into an agreement, without obtaining prior Board approval, that provides solely for compilation, publication, and other distribution of rates in effect or to become effective. The Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a) shall not apply to parties and other persons with respect to making or carrying out such agreement. However, the Board may, upon application or on its own initiative, investigate whether the parties to such an agreement have exceeded its scope, and upon a finding that they have, the Board may issue such orders as are necessary, including an order dissolving the agreement, to ensure that actions taken pursuant to the agreement are limited as provided in this paragraph.

(5)(A) Whenever two or more shippers enter into an agreement to discuss among themselves that relates to the amount of compensation such shippers propose to be paid by rail carriers providing transportation subject to the jurisdiction of the Board under this part, for use by such rail carriers of rolling stock owned or leased by such shippers, the shippers shall apply to the Board for approval of that agreement under this paragraph. The Board shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy set forth in section 10101 of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of approval. If the Board approves the agreement, it may be made and carried out under its terms and under the terms required by the Board, and the antitrust laws set forth in paragraph (2) of this subsection do not apply to parties and other persons with respect to making or carrying out the agreement. The Board shall approve or disapprove an agreement under this paragraph within one year after the date application for approval of such agreement is made.

(B) If the Board approves an agreement described in subparagraph (A) of this paragraph and the shippers entering into such agreement and the rail carriers proposing to use rolling stock owned or leased by such shippers, under payment by such carriers or under a published allowance, are unable to agree upon the amount of compensation to be paid for the use of such rolling stock, any party directly involved in the negotiations may require that the matter be settled by submitting the issues in dispute to the Board. The Board shall render a binding decision, based upon a standard of reasonableness and after taking into consideration any past precedents on the subject matter of the negotiations, no later than 90 days after the date of the submission of the dispute to the Board.

(C) Nothing in this paragraph shall be construed to change the law in effect prior to October 1, 1980, with respect to the obligation of rail carriers to utilize rolling stock owned or leased by shippers.

(b) The Board may require an organization established or continued under an agreement approved under this section to maintain records and submit reports. The Board may inspect a record maintained under this section.

(c) The Board may review an agreement approved under subsection (a) of this section and shall change the conditions of approval or terminate it when necessary to comply with the public interest and subsection (a). The Board shall postpone the effective date of a change of an agreement under this subsection for whatever period it determines to be reasonably necessary to avoid unreasonable hardship.

(d) The Board may begin a proceeding under this section on its own initiative or on application. Action of the Board under this section—

(1) approving an agreement;

(2) denying, ending, or changing approval;

(3) prescribing the conditions on which approval is granted; or

(4) changing those conditions,

has effect only as related to application of the antitrust laws referred to in subsection (a) of this section.

(e)(1) The Federal Trade Commission, in consultation with the Antitrust Division of the Department of Justice, shall prepare periodically an assessment of, and shall report to the Board on—

(A) possible anticompetitive features of—

(i) agreements approved or submitted for approval under subsection (a) of this section; and

(ii) an organization operating under those agreements; and

(B) possible ways to alleviate or end an anticompetitive feature, effect, or aspect in a manner that will further the goals of this part and of the transportation policy of section 10101 of this title.

(2) Reports received by the Board under this subsection shall be published and made available to the public under section 552(a) of title 5.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 812; amended Pub. L. 104–287, §5(24), Oct. 11, 1996, 110 Stat. 3390.)

REFERENCES IN TEXT

The Sherman Act, referred to in subsec. (a)(2)(A), (4), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

The Clayton Act, referred to in subsec. (a)(2)(A), (4), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, which is classified generally to sections 12, 13, 14 to 19, 20, 21, and 22 to 27 of Title 15 and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act, referred to in subsec. (a)(2)(A), (4), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

Sections 73 and 74 of the Wilson Tariff Act, referred to in subsec. (a)(2)(A), (4), are sections 73 and 74 of act Aug. 27, 1894, ch. 349, 28 Stat. 570, which enacted sections 8 and 9, respectively, of Title 15.

Act of June 19, 1936, referred to in subsec. (a)(2)(A), (4), is act June 19, 1936, ch. 592, 49 Stat. 1526, popularly

known as the Robinson-Patman Anti-discrimination Act and also as the Robinson-Patman Price Discrimination Act, which enacted sections 13a, 13b, and 21a of Title 15 and amended section 13 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 13 of Title 15 and Tables.

PRIOR PROVISIONS

A prior section 10706, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1377; Pub. L. 96–258, §1(7), June 3, 1980, 94 Stat. 426; Pub. L. 96–296, §14(a), (c), (d), July 1, 1980, 94 Stat. 803, 808; Pub. L. 96–448, title II, §219(a)–(e), 224(b), Oct. 14, 1980, 94 Stat. 1926–1929; Pub. L. 97–261, §10(a)–(d), Sept. 20, 1982, 96 Stat. 1109, 1110; Pub. L. 98–216, §2(12), Feb. 14, 1984, 98 Stat. 5; Pub. L. 99–521, §7(c), Oct. 22, 1986, 100 Stat. 2995, related to exemption from antitrust laws of rate agreements, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 10706 and 13703 of this title.

AMENDMENTS

1996—Subsec. (a)(5)(C). Pub. L. 104–287 substituted ''October 1, 1980,'' for ''the effective date of the Staggers Rail Act of 1980''.

§ 10707. Determination of market dominance in rail rate proceedings

(a) In this section, ''market dominance'' means an absence of effective competition from other rail carriers or modes of transportation for the transportation to which a rate applies.

(b) When a rate for transportation by a rail carrier providing transportation subject to the jurisdiction of the Board under this part is challenged as being unreasonably high, the Board shall determine whether the rail carrier proposing the rate has market dominance over the transportation to which the rate applies. The Board may make that determination on its own initiative or on complaint. A finding by the Board that the rail carrier does not have market dominance is determinative in a proceeding under this part related to that rate or transportation unless changed or set aside by the Board or set aside by a court of competent jurisdiction.

(c) When the Board finds in any proceeding that a rail carrier proposing or defending a rate for transportation has market dominance over the transportation to which the rate applies, it may then determine that rate to be unreasonable if it exceeds a reasonable maximum for that transportation. However, a finding of market dominance does not establish a presumption that the proposed rate exceeds a reasonable maximum.

(d)(1)(A) In making a determination under this section, the Board shall find that the rail carrier establishing the challenged rate does not have market dominance over the transportation to which the rate applies if such rail carrier proves that the rate charged results in a revenue-variable cost percentage for such transportation that is less than 180 percent.

(B) For purposes of this section, variable costs for a rail carrier shall be determined only by using such carrier's unadjusted costs, calculated using the Uniform Rail Costing System cost finding methodology (or an alternative methodology adopted by the Board in lieu thereof) and indexed quarterly to account for current wage and price levels in the region in which the carrier operates, with adjustments specified by the Board. A rail carrier may meet its burden of proof under this subsection by establishing its variable costs in accordance with this paragraph, but a shipper may rebut that showing by evidence of such type, and in accordance with such burden of proof, as the Board shall prescribe.

(2) A finding by the Board that a rate charged by a rail carrier results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than 180 percent does not establish a presumption that—

(A) such rail carrier has or does not have market dominance over such transportation; or

(B) the proposed rate exceeds or does not exceed a reasonable maximum.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 815.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10709 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 10707 and 10707a were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10707, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1380; Pub. L. 96–448, title II, §207, Oct. 14, 1980, 94 Stat. 1907; Pub. L. 103–272, §4(j)(21), July 5, 1994, 108 Stat. 1369, related to investigation and suspension of new rail carrier rates, classifications, rules, and practices.

Section 10707a, added Pub. L. 96–448, title II, §203(a), Oct. 14, 1980, 94 Stat. 1901; amended Pub. L. 103–272, §4(j)(22), July 5, 1994, 108 Stat. 1369, related to zone of rail carrier flexibility.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10701, 10702 of this title.

§ 10708. Rail cost adjustment factor

(a) The Board shall, as often as practicable, but in no event less often than quarterly, publish a rail cost adjustment factor which shall be a fraction, the numerator of which is the latest published Index of Railroad Costs (which index shall be compiled or verified by the Board, with appropriate adjustments to reflect the change in composition of railroad costs, including the quality and mix of material and labor) and the denominator of which is the same index for the fourth quarter of every fifth year, beginning with the fourth quarter of 1992.

(b) The rail cost adjustment factor published by the Board under subsection (a) of this section shall take into account changes in railroad productivity. The Board shall also publish a similar index that does not take into account changes in railroad productivity.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 816.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10712 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 10708, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1382; Pub. L. 96–296, §11, July 1, 1980, 94 Stat. 801; Pub. L. 97–261, §§11, 12(a), Sept. 20, 1982, 96 Stat. 1112,

1113; Pub. L. 99–521, §7(d), Oct. 22, 1986, 100 Stat. 2995, related to investigation and suspension of new nonrail carrier rates, classifications, rules, and practices, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 10709. Contracts

(a) One or more rail carriers providing transportation subject to the jurisdiction of the Board under this part may enter into a contract with one or more purchasers of rail services to provide specified services under specified rates and conditions.

(b) A party to a contract entered into under this section shall have no duty in connection with services provided under such contract other than those duties specified by the terms of the contract.

(c)(1) A contract that is authorized by this section, and transportation under such contract, shall not be subject to this part, and may not be subsequently challenged before the Board or in any court on the grounds that such contract violates a provision of this part.

(2) The exclusive remedy for any alleged breach of a contract entered into under this section shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree. This section does not confer original jurisdiction on the district courts of the United States based on section 1331 or 1337 of title 28, United States Code.

(d)(1) A summary of each contract for the transportation of agricultural products (including grain, as defined in section 3 of the United States Grain Standards Act (7 U.S.C. 75) and products thereof) entered into under this section shall be filed with the Board, containing such nonconfidential information as the Board prescribes. The Board shall publish special rules for such contracts in order to ensure that the essential terms of the contract are available to the general public.

(2) Documents, papers, and records (and any copies thereof) relating to a contract described in subsection (a) shall not be subject to the mandatory disclosure requirements of section 552 of title 5.

(e) Any lawful contract between a rail carrier and one or more purchasers of rail service that was in effect on October 1, 1980, shall be considered a contract authorized by this section.

(f) A rail carrier that enters into a contract as authorized by this section remains subject to the common carrier obligation set forth in section 11101, with respect to rail transportation not provided under such a contract.

(g)(1) No later than 30 days after the date of filing of a summary of a contract under this section, the Board may, on complaint, begin a proceeding to review such contract on the grounds described in this subsection.

(2)(A) A complaint may be filed under this subsection—

(i) by a shipper on the grounds that such shipper individually will be harmed because the proposed contract unduly impairs the ability of the contracting rail carrier or carriers to meet their common carrier obligations to the complainant under section 11101 of this title; or

(ii) by a port only on the grounds that such port individually will be harmed because the proposed contract will result in unreasonable discrimination against such port.

(B) In addition to the grounds for a complaint described in subparagraph (A) of this paragraph, a complaint may be filed by a shipper of agricultural commodities on the grounds that such shipper individually will be harmed because—

(i) the rail carrier has unreasonably discriminated by refusing to enter into a contract with such shipper for rates and services for the transportation of the same type of commodity under similar conditions to the contract at issue, and that shipper was ready, willing, and able to enter into such a contract at a time essentially contemporaneous with the period during which the contract at issue was offered; or

(ii) the proposed contract constitutes a destructive competitive practice under this part.

In making a determination under clause (ii) of this subparagraph, the Board shall consider the difference between contract rates and published single car rates.

(C) For purposes of this paragraph, the term ''unreasonable discrimination'' has the same meaning as such term has under section 10741 of this title.

(3)(A) Within 30 days after the date a proceeding is commenced under paragraph (1) of this subsection, or within such shorter time period after such date as the Board may establish, the Board shall determine whether the contract that is the subject of such proceeding is in violation of this section.

(B) If the Board determines, on the basis of a complaint filed under paragraph (2)(B)(i) of this subsection, that the grounds for a complaint described in such paragraph have been established with respect to a rail carrier, the Board shall, subject to the provisions of this section, order such rail carrier to provide rates and service substantially similar to the contract at issue with such differentials in terms and conditions as are justified by the evidence.

(h)(1) Any rail carrier may, in accordance with the terms of this section, enter into contracts for the transportation of agricultural commodities (including forest products, but not including wood pulp, wood chips, pulpwood or paper) involving the utilization of carrier owned or leased equipment not in excess of 40 percent of the capacity of such carrier's owned or leased equipment by major car type (plain boxcars, covered hopper cars, gondolas and open top hoppers, coal cars, bulkhead flatcars, pulpwood rackcars, and flatbed equipment, including TOFC/COFC).

(2) The Board may, on request of a rail carrier or other party or on its own initiative, grant such relief from the limitations of paragraph (1) of this subsection as the Board considers appropriate, if it appears that additional equipment may be made available without impairing the rail carrier's ability to meet its common carrier obligations under section 11101 of this title.

(3)(A) This subsection shall cease to be effective after September 30, 1998.

(B) Before October 1, 1997, the National Grain Car Council and the Railroad-Shipper Transpor-

tation Advisory Council shall make recommendations to Congress on whether to extend the effectiveness of or otherwise modify this subsection.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 817; amended Pub. L. 104–287, §5(24), Oct. 11, 1996, 110 Stat. 3390.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10713 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 10709 to 10713 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10709, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1382; Pub. L. 96–448, title II, §202, Oct. 14, 1980, 94 Stat. 1900, related to determination of market dominance in rail carrier rate proceedings. See section 10707 of this title.

Section 10710, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1383, related to elimination of discrimination against recyclable materials.

Section 10711, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1383, related to effect of former sections 10701(a), (b), 10707, 10709, 10727, and 10728 of this title on rail rates and practices.

Section 10712, added Pub. L. 96–448, title II, §206(a), Oct. 14, 1980, 94 Stat. 1906, related to inflation-based rate increases.

Section 10713, added Pub. L. 96–448, title II, §208(a), Oct. 14, 1980, 94 Stat. 1908; amended Pub. L. 97–468, title V, §502, Jan. 14, 1983, 96 Stat. 2552; Pub. L. 99–509, title IV, §4051, Oct. 21, 1986, 100 Stat. 1910, related to contracts between rail carriers and purchasers of rail services. See section 10709 of this title.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–287 substituted ''October 1, 1980,'' for ''the effective date of the Staggers Rail Act of 1980''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10741, 11101, 11904 of this title.

SUBCHAPTER II—SPECIAL CIRCUMSTANCES

§ 10721. Government traffic

A rail carrier providing transportation or service for the United States Government may transport property or individuals for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply when transportation for the United States Government can be obtained from a rail carrier lawfully operating in the area where the transportation would be provided.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 819.)

PRIOR PROVISIONS

A prior section 10721, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1383; Pub. L. 96–454, §10(b), Oct. 15, 1980, 94 Stat. 2022; Pub. L. 103–272, §5(m)(22), July 5, 1994, 108 Stat. 1378, related to Government traffic, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 10721, 13712, and 15504 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 section 3726.

§ 10722. Car utilization

In order to encourage more efficient use of freight cars, notwithstanding any other provision of this part, rail carriers shall be permitted to establish premium charges for special services or special levels of services not otherwise applicable to the movement. The Board shall facilitate development of such charges so as to increase the utilization of equipment.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 819.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10734 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 10722 to 10726 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10722, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1384; Pub. L. 97–261, §29(a), (b), Sept. 20, 1982, 96 Stat. 1128; Pub. L. 99–521, §7(e), Oct. 22, 1986, 100 Stat. 2995, related to special passenger rates.

Section 10723, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1385; Pub. L. 97–261, §29(c), Sept. 20, 1982, 96 Stat. 1128; Pub. L. 102–54, §13(s), June 13, 1991, 105 Stat. 282; Pub. L. 102–240, title IV, §4011, Dec. 18, 1991, 105 Stat. 2156, related to transportation for charitable purposes.

Section 10724, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1386, related to rates for emergency transportation.

Section 10725, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1387; Pub. L. 99–521, §7(f), Oct. 22, 1986, 100 Stat. 2995, related to special freight forwarder rates.

Section 10726, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1387; Pub. L. 96–448, title II, §220, Oct. 14, 1980, 94 Stat. 1928, related to long and short haul transportation.

A prior section 10727, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1388, authorized the Interstate Commerce Commission to maintain standards and procedures to permit seasonal, regional, or peak-period demand rates and required the Commission to submit an annual report to Congress on implementation of those rates and recommendations for additional legislation needed to make it easier to establish those rates, prior to repeal by Pub. L. 96–448, title II, §209, title VII, §710(a), Oct. 14, 1980, 94 Stat. 1910, 1966, effective Oct. 1, 1980.

A prior section 10728, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1388, related to separate rates for distinct rail services, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 10729, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1389, authorized rail carrier to establish rate, classification, rule, or practice requiring total capital investment of at least $1,000,000 to implement upon notice to Interstate Commerce Commission and opportunity for Commission proceeding and final decision within 180 days after notice and provided that Commission could not suspend or set aside any rate that became final for period of five years but could revise rate to level equal to variable costs of providing transportation when Commission found level then in effect reduced going concern of carrier, prior to repeal by Pub. L. 96–448, title II, §210(a), title VII, §710(a), Oct. 14, 1980, 94 Stat. 1910, 1966, effective Oct. 1, 1980.

Prior sections 10730 to 10735 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10730, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1389; Pub. L. 96–296, §12, July 1, 1980, 94 Stat. 802; Pub. L. 96–448, title II, §211(a), (b), Oct. 14, 1980, 94 Stat. 1911; Pub. L. 99–521, §7(g), Oct. 22, 1986, 100 Stat. 2995, related to rates and liability based on value.

Section 10731, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1389; Pub. L. 96–448, title II, §204, Oct. 14, 1980, 94 Stat. 1905; Pub. L. 103–272, §4(j)(23), July 5, 1994, 108 Stat. 1369, related to investigation of discriminatory rail rates for transportation of recyclable or recycled materials.

Section 10732, added Pub. L. 96–296, §8(a), July 1, 1980, 94 Stat. 798; amended Pub. L. 100–690, title IX, §9113, Nov. 18, 1988, 102 Stat. 4535, related to food and grocery transportation. See section 13713 of this title.

Section 10733, added Pub. L. 96–296, § 32(a), July 1, 1980, 94 Stat. 824, related to rates for transportation of recyclable materials.

Section 10734, added Pub. L. 96–448, title II, § 225(a), Oct. 14, 1980, 94 Stat. 1930, related to car utilization. See section 10722 of this title.

Another prior section 10734 was renumbered section 10735 of this title.

Section 10735, added Pub. L. 96–454, § 4(a), Oct. 15, 1980, 94 Stat. 2012, § 10734; renumbered § 10735, Pub. L. 98–554, title II, § 227(b)(1), Oct. 30, 1984, 98 Stat. 2852; amended Pub. L. 103–272, § 5(m)(23), July 5, 1994, 108 Stat. 1378, related to household goods rates, estimates, and guarantees of service. See section 13704 of this title.

SUBCHAPTER III—LIMITATIONS

§ 10741. Prohibitions against discrimination by rail carriers

(a)(1) A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part may not subject a person, place, port, or type of traffic to unreasonable discrimination.

(2) For purposes of this section, a rail carrier engages in unreasonable discrimination when it charges or receives from a person a different compensation for a service rendered, or to be rendered, in transportation the rail carrier may perform under this part than it charges or receives from another person for performing a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances.

(b) This section shall not apply to—

(1) contracts described in section 10709 of this title;

(2) rail rates applicable to different routes; or

(3) discrimination against the traffic of another carrier providing transportation by any mode.

(c) Differences between rates, classifications, rules, and practices of rail carriers do not constitute a violation of this section if such differences result from different services provided by rail carriers.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 819.)

PRIOR PROVISIONS

A prior section 10741, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1390; Pub. L. 96–296, § 33(d), July 1, 1980, 94 Stat. 825; Pub. L. 96–448, title II, § 212, Oct. 14, 1980, 94 Stat. 1912; Pub. L. 99–521, § 7(h), Oct. 22, 1986, 100 Stat. 2995, related to prohibitions against discrimination by common carriers, prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a). See sections 10741 and 15505 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10705, 10709 of this title.

§ 10742. Facilities for interchange of traffic

A rail carrier providing transportation subject to the jurisdiction of the Board under this part shall provide reasonable, proper, and equal facilities that are within its power to provide for the interchange of traffic between, and for the receiving, forwarding, and delivering of passengers and property to and from, its respective line and a connecting line of another rail carrier or of a water carrier providing transportation subject to chapter 137.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 819.)

PRIOR PROVISIONS

A prior section 10742, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1391, related to facilities for interchange of traffic, prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a). See sections 10742 and 15506 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10705 of this title.

§ 10743. Liability for payment of rates

(a)(1) Liability for payment of rates for transportation for a shipment of property by a shipper or consignor to a consignee other than the shipper or consignor, is determined under this subsection when the transportation is provided by a rail carrier under this part. When the shipper or consignor instructs the rail carrier transporting the property to deliver it to a consignee that is an agent only, not having beneficial title to the property, the consignee is liable for rates billed at the time of delivery for which the consignee is otherwise liable, but not for additional rates that may be found to be due after delivery if the consignee gives written notice to the delivering carrier before delivery of the property—

(A) of the agency and absence of beneficial title; and

(B) of the name and address of the beneficial owner of the property if it is reconsigned or diverted to a place other than the place specified in the original bill of lading.

(2) When the consignee is liable only for rates billed at the time of delivery under paragraph (1) of this subsection, the shipper or consignor, or, if the property is reconsigned or diverted, the beneficial owner, is liable for those additional rates regardless of the bill of lading or contract under which the property was transported. The beneficial owner is liable for all rates when the property is reconsigned or diverted by an agent but is refused or abandoned at its ultimate destination if the agent gave the rail carrier in the reconsignment or diversion order a notice of agency and the name and address of the beneficial owner. A consignee giving the rail carrier, and a reconsignor or diverter giving a rail carrier, erroneous information about the identity of the beneficial owner of the property is liable for the additional rates.

(b) Liability for payment of rates for transportation for a shipment of property by a shipper or consignor, named in the bill of lading as consignee, is determined under this subsection when the transportation is provided by a rail carrier under this part. When the shipper or consignor gives written notice, before delivery of the property, to the line-haul rail carrier that is to make ultimate delivery—

(1) to deliver the property to another party identified by the shipper or consignor as the beneficial owner of the property; and

(2) that delivery is to be made to that party on payment of all applicable transportation rates;

that party is liable for the rates billed at the time of delivery and for additional rates that may be found to be due after delivery if that party does not pay the rates required to be paid under paragraph (2) of this subsection on delivery. However, if the party gives written notice to the delivering rail carrier before delivery that the party is not the beneficial owner of the property and gives the rail carrier the name and address of the beneficial owner, then the party is not liable for those additional rates. A shipper, consignor, or party to whom delivery is made that gives the delivering rail carrier erroneous information about the identity of the beneficial owner, is liable for the additional rates regardless of the bill of lading or contract under which the property was transported. This subsection does not apply to a prepaid shipment of property.

(c)(1) A rail carrier may bring an action to enforce liability under subsection (a) of this section. That rail carrier must bring the action during the period provided in section 11705(a) of this title or by the end of the 6th month after final judgment against it in an action against the consignee, or the beneficial owner named by the consignee or agent, under that section.

(2) A rail carrier may bring an action to enforce liability under subsection (b) of this section. That carrier must bring the action during the period provided in section 11705(a) of this title or by the end of the 6th month after final judgment against it in an action against the shipper, consignor, or other party under that section.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 819.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10744 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 10743, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1391; Pub. L. 99–521, §7(i), Oct. 22, 1986, 100 Stat. 2995, related to payment of rates, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 13707 of this title.

§ 10744. Continuous carriage of freight

A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part may not enter a combination or arrangement to prevent the carriage of freight from being continuous from the place of shipment to the place of destination whether by change of time schedule, carriage in different cars, or by other means. The carriage of freight by those rail carriers is considered to be a continuous carriage from the place of shipment to the place of destination when a break of bulk, stoppage, or interruption is not made in good faith for a necessary purpose, and with the intent of avoiding or unnecessarily interrupting the continuous carriage or of evading this part.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 821.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10745 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 10744, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1391, related to liability for payment of rates, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 10743 and 13706 of this title.

§ 10745. Transportation services or facilities furnished by shipper

A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part may establish a charge or allowance for transportation or service for property when the owner of the property, directly or indirectly, furnishes a service related to or an instrumentality used in the transportation or service. The Board may prescribe the maximum reasonable charge or allowance a rail carrier subject to its jurisdiction may pay for a service or instrumentality furnished under this section. The Board may begin a proceeding under this section on its own initiative or on application.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 821.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10747 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 10745, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1392, related to continuous carriage of freight, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 10744 of this title.

§ 10746. Demurrage charges

A rail carrier providing transportation subject to the jurisdiction of the Board under this part shall compute demurrage charges, and establish rules related to those charges, in a way that fulfills the national needs related to—

(1) freight car use and distribution; and

(2) maintenance of an adequate supply of freight cars to be available for transportation of property.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 821.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10750 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 10746, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1393, related to transportation of commodities manufactured or produced by rail carrier, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 10747. Designation of certain routes by shippers

(a)(1) When a person delivers property to a rail carrier for transportation subject to the jurisdiction of the Board under this part, the person may direct the rail carrier to transport the property over an established through route. When competing rail lines constitute a part of the route, the person shipping the property may designate the lines over which the property will be transported. The designation must be in writing. A rail carrier may be directed to transport property over a particular through route when—

(A) there are at least 2 through routes over which the property could be transported;

(B) a through rate has been established for transportation over each of those through routes; and

(C) the rail carrier is a party to those routes and rates.

(2) A rail carrier directed to route property transported under paragraph (1) of this subsection must issue a through bill of lading containing the routing instructions and transport the property according to the instructions. When the property is delivered to a connecting rail carrier, that rail carrier must also receive and transport it according to the routing instructions and deliver it to the next succeeding rail carrier or consignee according to the instructions.

(b) The Board may prescribe exceptions to the authority of a person to direct the movement of traffic under subsection (a) of this section.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 821.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10763 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 10747 to 10751, 10761 to 10767, and 10781 to 10786 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10747, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1393, related to transportation services or facilities furnished by shippers. See section 10745 of this title.

Section 10748, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1393, related to transportation of livestock by rail carrier.

Section 10749, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1393; Pub. L. 96–296, §10(c), July 1, 1980, 94 Stat. 800; Pub. L. 97–468, title VI, §615(b)(3), Jan. 14, 1983, 96 Stat. 2578; Pub. L. 98–216, §2(13), Feb. 14, 1984, 98 Stat. 5; Pub. L. 99–521, §7(j)(1), (2), Oct. 22, 1986, 100 Stat. 2995; Pub. L. 103–272, §4(j)(24), July 5, 1994, 108 Stat. 1369, related to exchange of services and limitation on use of common carriers by household goods freight forwarders.

Section 10750, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1394, related to demurrage charges. See section 10746 of this title.

Section 10751, added Pub. L. 96–296, §33(a), July 1, 1980, 94 Stat. 824; amended Pub. L. 96–448, title II, §215(a), Oct. 14, 1980, 94 Stat. 1915; Pub. L. 103–272, §4(j)(25), July 5, 1994, 108 Stat. 1369, related to business entertainment expenses. See section 14901 of this title.

Section 10761, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1394; Pub. L. 96–296, §33(c), July 1, 1980, 94 Stat. 825; Pub. L. 103–311, title II, §206(b), Aug. 26, 1994, 108 Stat. 1684, related to prohibition of transportation without tariff. See section 13702 of this title.

Section 10762, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1394; Pub. L. 96–296, §5(c), July 1, 1980, 94 Stat. 796; Pub. L. 96–448, title II, §216, Oct. 14, 1980, 94 Stat. 1915; Pub. L. 97–261, §12(b), Sept. 20, 1982, 96 Stat. 1113; Pub. L. 99–521, §7(k), Oct. 22, 1986, 100 Stat. 2995; Pub. L. 103–180, §5, Dec. 3, 1993, 107 Stat. 2050; Pub. L. 103–311, title II, §206(c)–(e), Aug. 26, 1994, 108 Stat. 1684, 1685, related to general tariff requirements. See sections 13702 and 13710 of this title.

Section 10763, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1396, related to designation of certain routes by shippers or Interstate Commerce Commission. See section 10747 of this title.

Section 10764, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1397, related to arrangements between carriers and required copies of arrangements to be filed with Commission.

Section 10765, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1397, related to water transportation under arrangements with certain other carriers.

Section 10766, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1398; Pub. L. 96–296, §10(d), July 1, 1980, 94 Stat. 801; Pub. L. 99–521, §7(*l*), Oct. 22, 1986, 100 Stat. 2995, related to freight forwarder traffic agreements.

Section 10767, added Pub. L. 103–180, §7(a), Dec. 3, 1993, 107 Stat. 2051, related to billing and collecting practices. See section 13708 of this title.

Section 10781, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1398, related to investigations and reports by Commission on value of carrier property.

Section 10782, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1399, related to requirements for establishing value.

Section 10783, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1400, related to cooperation and assistance of carriers.

Section 10784, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1400; Pub. L. 96–258, §1(8), June 3, 1980, 94 Stat. 426, related to revision of property valuations.

Section 10785, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1401, related to finality of valuations, notices, protests, and review.

Section 10786, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1401, related to applicability of sections 10781 to 10786 of this title.

CHAPTER 109—LICENSING

Sec.
10901. Authorizing construction and operation of railroad lines.
10902. Short line purchases by Class II and Class III rail carriers.
10903. Filing and procedure for application to abandon or discontinue.
10904. Offers of financial assistance to avoid abandonment and discontinuance.
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10907. Railroad development.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 45 section 748.

§ 10901. Authorizing construction and operation of railroad lines

(a) A person may—

(1) construct an extension to any of its railroad lines;

(2) construct an additional railroad line;

(3) provide transportation over, or by means of, an extended or additional railroad line; or

(4) in the case of a person other than a rail carrier, acquire a railroad line or acquire or operate an extended or additional railroad line,

only if the Board issues a certificate authorizing such activity under subsection (c).

(b) A proceeding to grant authority under subsection (a) of this section begins when an application is filed. On receiving the application, the Board shall give reasonable public notice, including notice to the Governor of any affected State, of the beginning of such proceeding.

(c) The Board shall issue a certificate authorizing activities for which such authority is requested in an application filed under subsection (b) unless the Board finds that such activities are inconsistent with the public convenience and necessity. Such certificate may approve the application as filed, or with modifications, and may require compliance with conditions (other than labor protection conditions) the Board finds necessary in the public interest.

(d)(1) When a certificate has been issued by the Board under this section authorizing the construction or extension of a railroad line, no other rail carrier may block any construction or extension authorized by such certificate by re-

fusing to permit the carrier to cross its property if—

(A) the construction does not unreasonably interfere with the operation of the crossed line;

(B) the operation does not materially interfere with the operation of the crossed line; and

(C) the owner of the crossing line compensates the owner of the crossed line.

(2) If the parties are unable to agree on the terms of operation or the amount of payment for purposes of paragraph (1) of this subsection, either party may submit the matters in dispute to the Board for determination. The Board shall make a determination under this paragraph within 120 days after the dispute is submitted for determination.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 822.)

PRIOR PROVISIONS

A prior section 10901, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1402; Pub. L. 96–448, title II, §221, Oct. 14, 1980, 94 Stat. 1928, related to authorizing construction and operation of railroad lines, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10906, 11702, 11901 of this title; title 45 section 904.

§ 10902. Short line purchases by Class II and Class III rail carriers

(a) A Class II or Class III rail carrier providing transportation subject to the jurisdiction of the Board under this part may acquire or operate an extended or additional rail line under this section only if the Board issues a certificate authorizing such activity under subsection (c).

(b) A proceeding to grant authority under subsection (a) of this section begins when an application is filed. On receiving the application, the Board shall give reasonable public notice of the beginning of such proceeding.

(c) The Board shall issue a certificate authorizing activities for which such authority is requested in an application filed under subsection (b) unless the Board finds that such activities are inconsistent with the public convenience and necessity. Such certificate may approve the application as filed, or with modifications, and may require compliance with conditions (other than labor protection conditions) the Board finds necessary in the public interest.

(d) The Board shall require any Class II rail carrier which receives a certificate under subsection (c) of this section to provide a fair and equitable arrangement for the protection of the interests of employees who may be affected thereby. The arrangement shall consist exclusively of one year of severance pay, which shall not exceed the amount of earnings from railroad employment of the employee during the 12-month period immediately preceding the date on which the application for such certificate is filed with the Board. The amount of such severance pay shall be reduced by the amount of earnings from railroad employment of the employee with the acquiring carrier during the 12-month period immediately following the effective date of the transaction to which the certificate applies. The parties may agree to terms other than as provided in this subsection. The Board shall not require such an arrangement from a Class III rail carrier which receives a certificate under subsection (c) of this section.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 823.)

PRIOR PROVISIONS

A prior section 10902, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1403, related to authorizing action by rail carriers to provide adequate, efficient, and safe facilities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11702, 11901 of this title; title 45 section 797*l*.

§ 10903. Filing and procedure for application to abandon or discontinue

(a)(1) A rail carrier providing transportation subject to the jurisdiction of the Board under this part who intends to—

(A) abandon any part of its railroad lines; or

(B) discontinue the operation of all rail transportation over any part of its railroad lines,

must file an application relating thereto with the Board. An abandonment or discontinuance may be carried out only as authorized under this chapter.

(2) When a rail carrier providing transportation subject to the jurisdiction of the Board under this part files an application, the application shall include—

(A) an accurate and understandable summary of the rail carrier's reasons for the proposed abandonment or discontinuance;

(B) a statement indicating that each interested person is entitled to make recommendations to the Board on the future of the rail line; and

(C)(i) a statement that the line is available for subsidy or sale in accordance with section 10904 of this title, (ii) a statement that the rail carrier will promptly provide to each interested party an estimate of the annual subsidy and minimum purchase price, calculated in accordance with section 10904 of this title, and (iii) the name and business address of the person who is authorized to discuss the subsidy or sale terms for the rail carrier.

(3) The rail carrier shall—

(A) send by certified mail notice of the application to the chief executive officer of each State that would be directly affected by the proposed abandonment or discontinuance;

(B) post a copy of the notice in each terminal and station on each portion of a railroad line proposed to be abandoned or over which all transportation is to be discontinued;

(C) publish a copy of the notice for 3 consecutive weeks in a newspaper of general circulation in each county in which each such portion is located;

(D) mail a copy of the notice, to the extent practicable, to all shippers that have made

significant use (as designated by the Board) of the railroad line during the 12 months preceding the filing of the application; and

(E) attach to the application filed with the Board an affidavit certifying the manner in which subparagraphs (A) through (D) of this paragraph have been satisfied, and certifying that subparagraphs (A) through (D) have been satisfied within the most recent 30 days prior to the date the application is filed.

(b)(1) Except as provided in subsection (d), abandonment and discontinuance may occur as provided in section 10904.

(2) The Board shall require as a condition of any abandonment or discontinuance under this section provisions to protect the interests of employees. The provisions shall be at least as beneficial to those interests as the provisions established under sections 11326(a) and 24706(c)[1] of this title.

(c)(1) In this subsection, the term ''potentially subject to abandonment'' has the meaning given the term in regulations of the Board. The regulations may include standards that vary by region of the United States and by railroad or group of railroads.

(2) Each rail carrier shall maintain a complete diagram of the transportation system operated, directly or indirectly, by the rail carrier. The rail carrier shall submit to the Board and publish amendments to its diagram that are necessary to maintain the accuracy of the diagram. The diagram shall—

(A) include a detailed description of each of its railroad lines potentially subject to abandonment; and

(B) identify each railroad line for which the rail carrier plans to file an application to abandon or discontinue under subsection (a) of this section.

(d) A rail carrier providing transportation subject to the jurisdiction of the Board under this part may—

(1) abandon any part of its railroad lines; or

(2) discontinue the operation of all rail transportation over any part of its railroad lines;

only if the Board finds that the present or future public convenience and necessity require or permit the abandonment or discontinuance. In making the finding, the Board shall consider whether the abandonment or discontinuance will have a serious, adverse impact on rural and community development.

(e) Subject to this section and sections 10904 and 10905 of this title, if the Board—

(1) finds public convenience and necessity, it shall—

(A) approve the application as filed; or

(B) approve the application with modifications and require compliance with conditions that the Board finds are required by public convenience and necessity; or

(2) fails to find public convenience and necessity, it shall deny the application.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 823.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 24706(c) of this title, referred to in subsec. (b)(2), was repealed by Pub. L. 105–134, title I, §142(a), Dec. 2, 1997, 111 Stat. 2576.

PRIOR PROVISIONS

A prior section 10903, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1403; Pub. L. 96–448, title IV, §402(a), Oct. 14, 1980, 94 Stat. 1941; Pub. L. 98–216, §2(14), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103–272, §5(m)(24), July 5, 1994, 108 Stat. 1378, related to authorizing abandonment and discontinuance of railroad lines and rail transportation.

RAILROAD BRANCHLINE ABANDONMENTS BY BURLINGTON NORTHERN RAILROAD IN NORTH DAKOTA

Pub. L. 97–102, title IV, §402, Dec. 23, 1981, 95 Stat. 1465, as amended by Pub. L. 102–143, title III, §343, Oct. 28, 1991, 105 Stat. 948, provided that: ''Notwithstanding any other provision of law or of this Act, none of the funds provided in this or any other Act shall hereafter be used by the Interstate Commerce Commission to approve railroad branchline abandonments in the State of North Dakota by the entity generally known as the Burlington Northern Railroad, or its agents or assignees, in excess of a total of 350 miles, except that exempt abandonments and discontinuances that are effectuated pursuant to section 1152.50 of title 49 of the Code of Federal Regulations after the date of enactment of the Department of Transportation and Related Agencies Appropriations Act, 1992 [Oct. 28, 1991], shall not apply toward such 350-mile limit: *Provided*, That this section shall be in lieu of section 311 (amendment numbered 93) as set forth in the conference report and the joint explanatory statement of the committee of conference on the Department of Transportation and Related Agencies Appropriations Act, 1982 (H.R. 4209), filed in the House of Representatives on November 13, 1981 (H. Rept. No. 97–331).'' [Section 311 of H.R. 4209 is section 311 of Pub. L. 97–102, title III, Dec. 23, 1981, 95 Stat. 1460, which is not classified to the Code.] Similar provisions were contained in Pub. L. 97–92, title IV, §115, Dec. 15, 1981, 95 Stat. 1196.

[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.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10904, 10905, 10907, 11702, 11901 of this title; title 45 section 748.

§ 10904. Offers of financial assistance to avoid abandonment and discontinuance

(a) In this section—

(1) the term ''avoidable cost'' means all expenses that would be incurred by a rail carrier in providing transportation that would not be incurred if the railroad line over which the transportation was provided were abandoned or if the transportation were discontinued. Expenses include cash inflows foregone and cash outflows incurred by the rail carrier as a result of not abandoning or discontinuing the transportation. Cash inflows foregone and cash outflows incurred include—

(A) working capital and required capital expenditure;

(B) expenditures to eliminate deferred maintenance;

(C) the current cost of freight cars, locomotives, and other equipment; and

(D) the foregone tax benefits from not retiring properties from rail service and other effects of applicable Federal and State income taxes; and

(2) the term ''reasonable return'' means—

(A) if a rail carrier is not in reorganization, the cost of capital to the rail carrier, as determined by the Board; and

(B) if a rail carrier is in reorganization, the mean cost of capital of rail carriers not in reorganization, as determined by the Board.

(b) Any rail carrier which has filed an application for abandonment or discontinuance shall provide promptly to a party considering an offer of financial assistance and shall provide concurrently to the Board—

(1) an estimate of the annual subsidy and minimum purchase price required to keep the line or a portion of the line in operation;

(2) its most recent reports on the physical condition of that part of the railroad line involved in the proposed abandonment or discontinuance;

(3) traffic, revenue, and other data necessary to determine the amount of annual financial assistance which would be required to continue rail transportation over that part of the railroad line; and

(4) any other information that the Board considers necessary to allow a potential offeror to calculate an adequate subsidy or purchase offer.

(c) Within 4 months after an application is filed under section 10903, any person may offer to subsidize or purchase the railroad line that is the subject of such application. Such offer shall be filed concurrently with the Board. If the offer to subsidize or purchase is less than the carrier's estimate stated pursuant to subsection (b)(1), the offer shall explain the basis of the disparity, and the manner in which the offer is calculated.

(d)(1) Unless the Board, within 15 days after the expiration of the 4-month period described in subsection (c), finds that one or more financially responsible persons (including a governmental authority) have offered financial assistance regarding that part of the railroad line to be abandoned or over which all rail transportation is to be discontinued, abandonment or discontinuance may be carried out in accordance with section 10903.

(2) If the Board finds that such an offer or offers of financial assistance has been made within such period, abandonment or discontinuance shall be postponed until—

(A) the carrier and a financially responsible person have reached agreement on a transaction for subsidy or sale of the line; or

(B) the conditions and amount of compensation are established under subsection (f).

(e) Except as provided in subsection (f)(3), if the rail carrier and a financially responsible person (including a governmental authority) fail to agree on the amount or terms of the subsidy or purchase, either party may, within 30 days after the offer is made, request that the Board establish the conditions and amount of compensation.

(f)(1) Whenever the Board is requested to establish the conditions and amount of compensation under this section—

(A) the Board shall render its decision within 30 days;

(B) for proposed sales, the Board shall determine the price and other terms of sale, except that in no case shall the Board set a price which is below the fair market value of the line (including, unless otherwise mutually agreed, all facilities on the line or portion necessary to provide effective transportation services); and

(C) for proposed subsidies, the Board shall establish the compensation as the difference between the revenues attributable to that part of the railroad line and the avoidable cost of providing rail freight transportation on the line, plus a reasonable return on the value of the line.

(2) The decision of the Board shall be binding on both parties, except that the person who has offered to subsidize or purchase the line may withdraw his offer within 10 days of the Board's decision. In such a case, the abandonment or discontinuance may be carried out immediately, unless other offers are being considered pursuant to paragraph (3) of this subsection.

(3) If a rail carrier receives more than one offer to subsidize or purchase, it shall select the offeror with whom it wishes to transact business, and complete the subsidy or sale agreement, or request that the Board establish the conditions and amount of compensation before the 40th day after the expiration of the 4-month period described in subsection (c). If no agreement on subsidy or sale is reached within such 40-day period and the Board has not been requested to establish the conditions and amount of compensation, any other offeror whose offer was made within the 4-month period described in subsection (c) may request that the Board establish the conditions and amount of compensation. If the Board has established the conditions and amount of compensation, and the original offer has been withdrawn, any other offeror whose offer was made within the 4-month period described in subsection (c) may accept the Board's decision within 20 days after such decision, and the Board shall require the carrier to enter into a subsidy or sale agreement with such offeror, if such subsidy or sale agreement incorporates the Board's decision.

(4)(A) No purchaser of a line or portion of line sold under this section may transfer or discontinue service on such line prior to the end of the second year after consummation of the sale, nor may such purchaser transfer such line, except to the rail carrier from whom it was purchased, prior to the end of the fifth year after consummation of the sale.

(B) No subsidy arrangement approved under this section shall remain in effect for more than one year, unless otherwise mutually agreed by the parties.

(g) Upon abandonment of a railroad line under this chapter, the obligation of the rail carrier abandoning the line to provide transportation on that line, as required by section 11101(a), is extinguished.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 825.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10905 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 10904, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1404; Pub. L. 96–448, title IV, §402(b), Oct. 14, 1980, 94 Stat. 1941; Pub. L. 98–216, §2(4), Feb. 14, 1984, 98 Stat. 5, related to filing and procedure for applications to abandon or discontinue railroad lines or rail transportation, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 10903 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10903, 11702, 11901 of this title; title 45 section 748.

§ 10905. Offering abandoned rail properties for sale for public purposes

When the Board approves an application to abandon or discontinue under section 10903, the Board shall find whether the rail properties that are involved in the proposed abandonment or discontinuance are appropriate for use for public purposes, including highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the Board finds that the rail properties proposed to be abandoned are appropriate for public purposes and not required for continued rail operations, the properties may be sold, leased, exchanged, or otherwise disposed of only under conditions provided in the order of the Board. The conditions may include a prohibition on any such disposal for a period of not more than 180 days after the effective date of the order, unless the properties have first been offered, on reasonable terms, for sale for public purposes.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 827.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10906 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 10905, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1405; Pub. L. 96–448, title IV, §402(c), Oct. 14, 1980, 94 Stat. 1942; Pub. L. 103–272, §4(j)(26), July 5, 1994, 108 Stat. 1369, related to offers of financial assistance to avoid abandonment and discontinuance, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 10904 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10903, 11702, 11901 of this title.

§ 10906. Exception

Notwithstanding section 10901 and subchapter II of chapter 113 of this title, and without the approval of the Board, a rail carrier providing transportation subject to the jurisdiction of the Board under this part may enter into arrangements for the joint ownership or joint use of spur, industrial, team, switching, or side tracks. The Board does not have authority under this chapter over construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 827.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10907 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 10906, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1406, related to offering abandoned rail properties for sale for public purposes, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 10905 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11702, 11901 of this title.

§ 10907. Railroad development

(a) In this section, the term ''financially responsible person'' means a person who—

(1) is capable of paying the constitutional minimum value of the railroad line proposed to be acquired; and

(2) is able to assure that adequate transportation will be provided over such line for a period of not less than 3 years.

Such term includes a governmental authority but does not include a Class I or Class II rail carrier.

(b)(1) When the Board finds that—

(A)(i) the public convenience and necessity require or permit the sale of a particular railroad line under this section; or

(ii) a railroad line is on a system diagram map as required under section 10903 of this title, but the rail carrier owning such line has not filed an application to abandon such line under section 10903 of this title before an application to purchase such line, or any required preliminary filing with respect to such application, is filed under this section; and

(B) an application to purchase such line has been filed by a financially responsible person,

the Board shall require the rail carrier owning the railroad line to sell such line to such financially responsible person at a price not less than the constitutional minimum value.

(2) For purposes of this subsection, the constitutional minimum value of a particular railroad line shall be presumed to be not less than the net liquidation value of such line or the going concern value of such line, whichever is greater.

(c)(1) For purposes of this section, the Board may determine that the public convenience and necessity require or permit the sale of a railroad line if the Board determines, after a hearing on the record, that—

(A) the rail carrier operating such line refuses within a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over such line;

(B) the transportation over such line is inadequate for the majority of shippers who transport traffic over such line;

(C) the sale of such line will not have a significantly adverse financial effect on the rail carrier operating such line;

(D) the sale of such line will not have an adverse effect on the overall operational performance of the rail carrier operating such line; and

(E) the sale of such line will be likely to result in improved railroad transportation for shippers that transport traffic over such line.

(2) In a proceeding under this subsection, the burden of proving that the public convenience and necessity require or permit the sale of a particular railroad line is on the person filing the application to acquire such line. If the Board finds under this subsection that the public convenience and necessity require or permit the sale of a particular railroad line, the Board shall concurrently notify the parties of such finding and publish such finding in the Federal Register.

(d) In the case of any railroad line subject to sale under subsection (a) of this section, the Board shall, upon the request of the acquiring carrier, require the selling carrier to provide to the acquiring carrier trackage rights to allow a reasonable interchange with the selling carrier or to move power equipment or empty rolling stock between noncontiguous feeder lines operated by the acquiring carrier. The Board shall require the acquiring carrier to provide the selling carrier reasonable compensation for any such trackage rights.

(e) The Board shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with a railroad line subject to a sale under this section.

(f) In the case of a railroad line which carried less than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year, whenever a purchasing carrier under this section petitions the Board for joint rates applicable to traffic moving over through routes in which the purchasing carrier may practicably participate, the Board shall, within 30 days after the date such petition is filed and pursuant to section 10705(a) of this title, require the establishment of reasonable joint rates and divisions over such route.

(g)(1) Any person operating a railroad line acquired under this section may elect to be exempt from any of the provisions of this part, except that such a person may not be exempt from the provisions of chapter 107 of this title with respect to transportation under a joint rate.

(2) The provisions of paragraph (1) of this subsection shall apply to any line of railroad which was abandoned during the 18-month period immediately prior to October 1, 1980, and was subsequently purchased by a financially responsible person.

(h) If a purchasing carrier under this section proposes to sell or abandon all or any portion of a purchased railroad line, such purchasing carrier shall offer the right of first refusal with respect to such line or portion thereof to the carrier which sold such line under this section. Such offer shall be made at a price equal to the sum of the price paid by such purchasing carrier to such selling carrier for such line or portion thereof and the fair market value (less deterioration) of any improvements made, as adjusted to reflect inflation.

(i) Any person operating a railroad line acquired under this section may determine preconditions, such as payment of a subsidy, which must be met by shippers in order to obtain service over such lines, but such operator must notify the shippers on the line of its intention to impose such preconditions.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 828.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10910 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 10907 to 10910 and 10921 to 10936 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 10907, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1407, related to rail carriers entering into arrangements for joint use or ownership of spur, industrial, team, switching, or side tracks, and deprived Interstate Commerce Commission of authority over such tracks when located in one State or over certain electric railways. See sections 10102, 10501, and 10906 of this title.

Section 10908, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1407, related to discontinuing or changing interstate train or ferry transportation subject to State law.

Section 10909, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1408, related to discontinuing or changing train or ferry transportation in one State.

Section 10910, added Pub. L. 96–448, title IV, §401(a), Oct. 14, 1980, 94 Stat. 1939; amended Pub. L. 97–468, title V, §506(a), Jan. 14, 1983, 96 Stat. 2553; Pub. L. 103–272, §4(j)(27), July 5, 1994, 108 Stat. 1369, related to railroad development. See section 10907 of this title.

Section 10921, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1409, related to requirement for certificate, permit, or license. See section 13901 of this title.

Section 10922, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1409; Pub. L. 96–296, §§5(a), 6, 34(a), July 1, 1980, 94 Stat. 794, 796, 825; Pub. L. 96–454, §10(a), Oct. 15, 1980, 94 Stat. 2021; Pub. L. 97–261, §§6(a)–(c), (g), 7, 8, Sept. 20, 1982, 96 Stat. 1103, 1107, 1108; Pub. L. 98–554, title II, §§225(a), (b), 226(b), Oct. 30, 1984, 98 Stat. 2847, 2848, 2850; Pub. L. 100–17, title III, §§339, 340(a), Apr. 2, 1987, 101 Stat. 243, 245; Pub. L. 100–690, title IX, §9111(g), Nov. 18, 1988, 102 Stat. 4533; Pub. L. 102–240, title III, §3003(b), Dec. 18, 1991, 105 Stat. 2088; Pub. L. 103–272, §5(m)(25), July 5, 1994, 108 Stat. 1378; Pub. L. 103–311, title II, §207, Aug. 26, 1994, 108 Stat. 1686; Pub. L. 103–429, §7(a)(4)(D), Oct. 31, 1994, 108 Stat. 4389, related to certificates of motor and water common carriers. See section 13902 of this title.

Section 10923, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1410; Pub. L. 96–258, §1(9), June 3, 1980, 94 Stat. 426; Pub. L. 96–296, §§10(a)(2), (3), 34(b), July 1, 1980, 94 Stat. 799, 800, 825; Pub. L. 97–261, §13(a), Sept. 20, 1982, 96 Stat. 1114; Pub. L. 99–521, §8(a)(1), (2), Oct. 22, 1986, 100 Stat. 2996; Pub. L. 103–311, title II, §208, Aug. 26, 1994, 108 Stat. 1687, related to permits of motor and water contract carriers and household goods freight forwarders. See section 13903 of this title.

Section 10924, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1412; Pub. L. 96–296, §17(a), July 1, 1980, 94 Stat. 810; Pub. L. 97–261, §14(a)–(c), Sept. 20, 1982, 96 Stat. 1114; Pub. L. 103–272, §4(j)(28), July 5, 1994, 108 Stat. 1370, related to licenses of motor carrier brokers. See section 13904 of this title.

Section 10925, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1412; Pub. L. 96–296, §§10(e), 17(b), July 1, 1980, 94 Stat. 801, 811; Pub. L. 97–261, §§13(b), 22, Sept. 20, 1982, 96 Stat. 1114, 1123; Pub. L. 97–449, §5(g)(6), Jan. 12, 1983, 96 Stat. 2443; Pub. L. 99–521, §8(b), Oct. 22, 1986, 100 Stat. 2996; Pub. L. 103–311, title II, §209, Aug. 26, 1994, 108 Stat. 1688, related to effective periods of certificates, permits, and licenses. See section 13905 of this title.

Section 10926, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1413; Pub. L. 99–521, §8(c), Oct. 22, 1986, 100 Stat. 2996, related to transfers of certificates and permits.

Section 10927, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1413; Pub. L. 96–296, §29, July 1, 1980, 94 Stat. 820; Pub. L. 97–261, §18(h), Sept. 20, 1982, 96 Stat. 1121; Pub. L. 98–554, title II, §226(c)(2), (3), Oct. 30, 1984, 98 Stat. 2851; Pub. L. 99–521, §8(d), Oct. 22, 1986, 100 Stat. 2996; Pub. L. 100–690, title IX, §9111(h), Nov. 18, 1988, 102 Stat. 4534; Pub. L. 103–272, §5(m)(26), July 5, 1994, 108 Stat. 1378, related to security of motor carriers, brokers, and freight forwarders. See section 13906 of this title.

Section 10928, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1414; Pub. L. 96–296, §23, July 1, 1980, 94 Stat. 814; Pub.

L. 97–261, § 15, Sept. 20, 1982, 96 Stat. 1114, related to temporary authority for motor and water carriers.

Section 10929, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1415, related to temporary authority for previously exempt water transportation.

Section 10930, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1415; Pub. L. 96–296, § 10(b), July 1, 1980, 94 Stat. 800; Pub. L. 99–521, § 8(e), Oct. 22, 1986, 100 Stat. 2996, related to limitations on certificates and permits.

Section 10931, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1416, related to motor common carriers providing transportation entirely in one State.

Section 10932, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1417, related to motor carrier savings provisions.

Section 10933, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1418; Pub. L. 99–521, § 8(f)(1), (2), Oct. 22, 1986, 100 Stat. 2996, 2997, related to authorizing abandonment of household goods freight forwarder service.

Section 10934, added Pub. L. 96–454, § 5(a)(1), Oct. 15, 1980, 94 Stat. 2013; amended Pub. L. 98–554, title II, § 227(a)(2), Oct. 30, 1984, 98 Stat. 2852, related to household goods agents. See section 13907 of this title.

Section 10935, added Pub. L. 97–261, § 16(a), Sept. 20, 1982, 96 Stat. 1115; amended Pub. L. 103–272, § 5(m)(27), July 5, 1994, 108 Stat. 1378, related to discontinuing bus transportation in one State.

Section 10936, added Pub. L. 103–311, title II, § 211(a), Aug. 26, 1994, 108 Stat. 1689, related to limitation on State regulation of intrastate passengers by bus.

CHAPTER 111—OPERATIONS

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SUBCHAPTER I—GENERAL REQUIREMENTS

§ 11101. Common carrier transportation, service, and rates

(a) A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part shall provide the transportation or service on reasonable request. A rail carrier shall not be found to have violated this section because it fulfills its reasonable commitments under contracts authorized under section 10709 of this title before responding to reasonable requests for service. Commitments which deprive a carrier of its ability to respond to reasonable requests for common carrier service are not reasonable.

(b) A rail carrier shall also provide to any person, on request, the carrier's rates and other service terms. The response by a rail carrier to a request for the carrier's rates and other service terms shall be—

(1) in writing and forwarded to the requesting person promptly after receipt of the request; or

(2) promptly made available in electronic form.

(c) A rail carrier may not increase any common carrier rates or change any common carrier service terms unless 20 days have expired after written or electronic notice is provided to any person who, within the previous 12 months—

(1) has requested such rates or terms under subsection (b); or

(2) has made arrangements with the carrier for a shipment that would be subject to such increased rates or changed terms.

(d) With respect to transportation of agricultural products, in addition to the requirements of subsections (a), (b), and (c), a rail carrier shall publish, make available, and retain for public inspection its common carrier rates, schedules of rates, and other service terms, and any proposed and actual changes to such rates and service terms. For purposes of this subsection, agricultural products shall include grain as defined in section 3 of the United States Grain Standards Act (7 U.S.C. 75) and all products thereof, and fertilizer.

(e) A rail carrier shall provide transportation or service in accordance with the rates and service terms, and any changes thereto, as published or otherwise made available under subsection (b), (c), or (d).

(f) The Board shall, by regulation, establish rules to implement this section. The regulations shall provide for immediate disclosure and dissemination of rates and service terms, including classifications, rules, and practices, and their effective dates. Final regulations shall be adopted by the Board not later than 180 days after January 1, 1996.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 830; amended Pub. L. 104–287, § 5(25), Oct. 11, 1996, 110 Stat. 3390.)

PRIOR PROVISIONS

A prior section 11101, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1419; Pub. L. 96–258, § 1(10), June 3, 1980, 94 Stat. 426; Pub. L. 96–448, title II, § 222, Oct. 14, 1980, 94 Stat. 1929; Pub. L. 99–521, § 9(a), Oct. 22, 1986, 100 Stat. 2997; Pub. L. 103–180, § 8, Dec. 3, 1993, 107 Stat. 2052, related to duties of carriers to provide transportation and service, prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a). See sections 11101, 13710, 14101, and 15701 of this title.

AMENDMENTS

1996—Subsec. (f). Pub. L. 104–287 substituted ''January 1, 1996'' for ''the effective date of the ICC Termination Act of 1995''.

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10709, 10904 of this title.

§ 11102. Use of terminal facilities

(a) The Board may require terminal facilities, including main-line tracks for a reasonable distance outside of a terminal, owned by a rail carrier providing transportation subject to the jurisdiction of the Board under this part, to be used by another rail carrier if the Board finds that use to be practicable and in the public interest without substantially impairing the ability of the rail carrier owning the facilities or entitled to use the facilities to handle its own business. The rail carriers are responsible for establishing the conditions and compensation for use of the facilities. However, if the rail carriers cannot agree, the Board may establish conditions and compensation for use of the facilities under the principle controlling compensation in condemnation proceedings. The compensation shall be paid or adequately secured before a rail carrier may begin to use the facilities of another rail carrier under this section.

(b) A rail carrier whose terminal facilities are required to be used by another rail carrier under this section is entitled to recover damages from the other rail carrier for injuries sustained as the result of compliance with the requirement or for compensation for the use, or both as appropriate, in a civil action, if it is not satisfied with the conditions for use of the facilities or if the amount of the compensation is not paid promptly.

(c)(1) The Board may require rail carriers to enter into reciprocal switching agreements, where it finds such agreements to be practicable and in the public interest, or where such agreements are necessary to provide competitive rail service. The rail carriers entering into such an agreement shall establish the conditions and compensation applicable to such agreement, but, if the rail carriers cannot agree upon such conditions and compensation within a reasonable period of time, the Board may establish such conditions and compensation.

(2) The Board may require reciprocal switching agreements entered into by rail carriers pursuant to this subsection to contain provisions for the protection of the interests of employees affected thereby.

(d) The Board shall complete any proceeding under subsection (a) or (b) within 180 days after the filing of the request for relief.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 831.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11103 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11102, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1419, related to classification of carriers, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10501, 10705 of this title.

§ 11103. Switch connections and tracks

(a) On application of the owner of a lateral branch line of railroad, or of a shipper tendering interstate traffic for transportation, a rail carrier providing transportation subject to the jurisdiction of the Board under this part shall construct, maintain, and operate, on reasonable conditions, a switch connection to connect that branch line or private side track with its railroad and shall furnish cars to move that traffic to the best of its ability without discrimination in favor of or against the shipper when the connection—

(1) is reasonably practicable;

(2) can be made safely; and

(3) will furnish sufficient business to justify its construction and maintenance.

(b) If a rail carrier fails to install and operate a switch connection after application is made under subsection (a) of this section, the owner of the lateral branch line of railroad or the shipper may file a complaint with the Board under section 11701 of this title. The Board shall investigate the complaint and decide the safety, practicability, justification, and compensation to be paid for the connection. The Board may direct the rail carrier to comply with subsection (a) of this section only after a full hearing.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 831.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11104 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 11103 to 11111 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 11103, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1419; Pub. L. 96–448, title II, §223, Oct. 14, 1980, 94 Stat. 1929, related to use of terminal facilities. See section 11102 of this title.

Section 11104, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1420, related to switch connections and tracks. See section 11103 of this title.

Section 11105, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1420, related to protective services.

Section 11106, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1420, related to identification of motor vehicles.

Section 11107, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1420; Pub. L. 96–296, §15(d), July 1, 1980, 94 Stat. 809, related to leased motor vehicles. See section 14102 of this title.

Section 11108, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1421, related to water carriers subject to unreasonable discrimination in foreign transportation.

Section 11109, added Pub. L. 96–296, §15(a)(1), July 1, 1980, 94 Stat. 808, related to loading and unloading motor vehicles. See section 14103 of this title.

Section 11110, added Pub. L. 96–454, §6(a)(1), Oct. 15, 1980, 94 Stat. 2015, related to household goods carrier operations. See section 14104 of this title.

Section 11111, added Pub. L. 97–261, §25(d)(1), Sept. 20, 1982, 96 Stat. 1125, related to use of citizen band radios on buses.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10501 of this title.

SUBCHAPTER II—CAR SERVICE

§ 11121. Criteria

(a)(1) A rail carrier providing transportation subject to the jurisdiction of the Board under this part shall furnish safe and adequate car service and establish, observe, and enforce reasonable rules and practices on car service. The

Board may require a rail carrier to provide facilities and equipment that are reasonably necessary to furnish safe and adequate car service if the Board decides that the rail carrier has materially failed to furnish that service. The Board may begin a proceeding under this paragraph when an interested person files an application with it. The Board may act only after a hearing on the record and an affirmative finding, based on the evidence presented, that—

(A) providing the facilities or equipment will not materially and adversely affect the ability of the rail carrier to provide safe and adequate transportation;

(B) the amount spent for the facilities or equipment, including a return equal to the rail carrier's current cost of capital, will be recovered; and

(C) providing the facilities or equipment will not impair the ability of the rail carrier to attract adequate capital.

(2) The Board may require a rail carrier to file its car service rules with the Board.

(b) The Board may designate and appoint agents and agencies to make and carry out its directions related to car service and matters under sections 11123 and 11124(a)(1) of this title.

(c) The Board shall consult, as it considers necessary, with the National Grain Car Council on matters within the charter of that body.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 832.)

PRIOR PROVISIONS

A prior section 11121, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1421; Pub. L. 96–258, §1(11), June 3, 1980, 94 Stat. 426, related to criteria of rail carriers to furnish safe and adequate car service, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 11122. Compensation and practice

(a) The regulations of the Board on car service shall encourage the purchase, acquisition, and efficient use of freight cars. The regulations may include—

(1) the compensation to be paid for the use of a locomotive, freight car, or other vehicle;

(2) the other terms of any arrangement for the use by a rail carrier of a locomotive, freight car, or other vehicle not owned by the rail carrier using the locomotive, freight car, or other vehicle, whether or not owned by another carrier, shipper, or third person; and

(3) sanctions for nonobservance.

(b) The rate of compensation to be paid for each type of freight car shall be determined by the expense of owning and maintaining that type of freight car, including a fair return on its cost giving consideration to current costs of capital, repairs, materials, parts, and labor. In determining the rate of compensation, the Board shall consider the transportation use of each type of freight car, the national level of ownership of each type of freight car, and other factors that affect the adequacy of the national freight car supply.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 832.)

PRIOR PROVISIONS

A prior section 11122, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1421; Pub. L. 96–448, title II, §224(a), Oct. 14, 1980, 94 Stat. 1929, related to use of and compensation for freight cars, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 11123. Situations requiring immediate action to serve the public

(a) When the Board determines that shortage of equipment, congestion of traffic, unauthorized cessation of operations, or other failure of traffic movement exists which creates an emergency situation of such magnitude as to have substantial adverse effects on shippers, or on rail service in a region of the United States, or that a rail carrier providing transportation subject to the jurisdiction of the Board under this part cannot transport the traffic offered to it in a manner that properly serves the public, the Board may, to promote commerce and service to the public, for a period not to exceed 30 days—

(1) direct the handling, routing, and movement of the traffic of a rail carrier and its distribution over its own or other railroad lines;

(2) require joint or common use of railroad facilities;

(3) prescribe temporary through routes; or

(4) give directions for—

(A) preference or priority in transportation;

(B) embargoes; or

(C) movement of traffic under permits.

(b)(1) Except with respect to proceedings under paragraph (2) of this subsection, the Board may act under this section on its own initiative or on application without regard to subchapter II of chapter 5 of title 5.

(2) Rail carriers may establish between themselves the terms of compensation for operations, and use of facilities and equipment, required under this section. When rail carriers do not agree on the terms of compensation under this section, the Board may establish the terms for them. The Board may act under subsection (a) before conducting a proceeding under this paragraph.

(3) When a rail carrier is directed under this section to operate the lines of another rail carrier due to that carrier's cessation of operations, compensation for the directed operations shall derive only from revenues generated by the directed operations.

(c)(1) The Board may extend any action taken under subsection (a) of this section beyond 30 days if the Board finds that a transportation emergency described in subsection (a) continues to exist. Action by the Board under subsection (a) of this section may not remain in effect for more than 240 days beyond the initial 30-day period.

(2) The Board may not take action under this section that would—

(A) cause a rail carrier to operate in violation of this part; or

(B) impair substantially the ability of a rail carrier to serve its own customers adequately, or to fulfill its common carrier obligations.

(3) A rail carrier directed by the Board to take action under this section is not responsible, as a result of that action, for debts of any other rail carrier.

(d) In carrying out this section, the Board shall require, to the maximum extent prac-

ticable, the use of employees who would normally have performed work in connection with the traffic subject to the action of the Board.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 833.)

PRIOR PROVISIONS

A prior section 11123, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1422; Pub. L. 96–448, title II, §226, Oct. 14, 1980, 94 Stat. 1930, related to situations requiring immediate action, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11121, 11322, 11901 of this title.

§ 11124. War emergencies; embargoes imposed by carriers

(a)(1) When the President, during time of war or threatened war, notifies the Board that it is essential to the defense and security of the United States to give preference or priority to the movement of certain traffic, the Board shall direct that preference or priority be given to that traffic.

(2) When the President, during time of war or threatened war, demands that preference and precedence be given to the transportation of troops and material of war over all other traffic, all rail carriers providing transportation subject to the jurisdiction of the Board under this part shall adopt every means within their control to facilitate and expedite the military traffic.

(b) An embargo imposed by any such rail carrier does not apply to shipments consigned to agents of the United States Government for its use. The rail carrier shall deliver those shipments as promptly as possible.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 834.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11128 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 11124 to 11128 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 11124, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1422, related to rerouting traffic on failure of rail carrier to serve the public.

Section 11125, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1423; Pub. L. 98–216, §2(15), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103–272, §5(m)(28), July 5, 1994, 108 Stat. 1378, related to directed rail transportation.

Section 11126, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1424; Pub. L. 103–272, §5(m)(29), July 5, 1994, 108 Stat. 1378, related to distribution of coal cars.

Section 11127, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1424; Pub. L. 99–521, §9(b)(1), (2), Oct. 22, 1986, 100 Stat. 2997, related to service of household goods freight forwarders.

Section 11128, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1425, related to war emergencies and embargoes imposed by carriers. See section 11124 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11121, 11901 of this title.

SUBCHAPTER III—REPORTS AND RECORDS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 11901, 11903 of this title.

§ 11141. Definitions

In this subchapter—

(1) the terms ''rail carrier'' and ''lessor'' include a receiver or trustee of a rail carrier and lessor, respectively;

(2) the term ''lessor'' means a person owning a railroad that is leased to and operated by a carrier providing transportation subject to the jurisdiction of the Board under this part; and

(3) the term ''association'' means an organization maintained by or in the interest of a group of rail carriers providing transportation or service subject to the jurisdiction of the Board under this part that performs a service, or engages in activities, related to transportation under this part.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 834.)

PRIOR PROVISIONS

A prior section 11141, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1425; Pub. L. 99–521, §9(c), Oct. 22, 1986, 100 Stat. 2997, defined terms for purposes of former sections 11141 to 11145 of this title, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 11141, 14121, and 15721 of this title.

§ 11142. Uniform accounting system

The Board may prescribe a uniform accounting system for classes of rail carriers providing transportation subject to the jurisdiction of the Board under this part. To the maximum extent practicable, the Board shall conform such system to generally accepted accounting principles, and shall administer this subchapter in accordance with such principles.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 834.)

PRIOR PROVISIONS

A prior section 11142, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1425; Pub. L. 96–448, title III, §301, Oct. 14, 1980, 94 Stat. 1934, related to uniform accounting system, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 11143. Depreciation charges

The Board shall, for a class of rail carriers providing transportation subject to its jurisdiction under this part, prescribe, and change when necessary, those classes of property for which depreciation charges may be included under operating expenses and a rate of depreciation that may be charged to a class of property. The Board may classify those rail carriers for purposes of this section. A rail carrier for whom depreciation charges and rates of depreciation are in effect under this section for any class of property may not—

(1) charge to operating expenses a depreciation charge on a class of property other than that prescribed by the Board;

(2) charge another rate of depreciation; or

(3) include other depreciation charges in operating expenses.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 834.)

PRIOR PROVISIONS

A prior section 11143, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1426, related to depreciation charges, prior to the

general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 11144. Records: form; inspection; preservation

(a) The Board may prescribe the form of records required to be prepared or compiled under this subchapter—

(1) by rail carriers and lessors, including records related to movement of traffic and receipts and expenditures of money; and

(2) by persons furnishing cars to or for a rail carrier providing transportation subject to the jurisdiction of the Board under this part to the extent related to those cars or that service.

(b) The Board, or an employee designated by the Board, may on demand and display of proper credentials—

(1) inspect and examine the lands, buildings, and equipment of a rail carrier or lessor; and

(2) inspect and copy any record of—

(A) a rail carrier, lessor, or association;

(B) a person controlling, controlled by, or under common control with a rail carrier if the Board considers inspection relevant to that person's relation to, or transaction with, that rail carrier; and

(C) a person furnishing cars to or for a rail carrier if the Board prescribed the form of that record.

(c) The Board may prescribe the time period during which operating, accounting, and financial records must be preserved by rail carriers, lessors, and persons furnishing cars.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 835.)

PRIOR PROVISIONS

A prior section 11144, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1426; Pub. L. 96–296, § 24(c), July 1, 1980, 94 Stat. 816, related to form, inspection, and preservation of records, prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a). See sections 11144, 14122, and 15722 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11901, 11904 of this title.

§ 11145. Reports by rail carriers, lessors, and associations

(a) The Board may require—

(1) rail carriers, lessors, and associations, or classes of them as the Board may prescribe, to file annual, periodic, and special reports with the Board containing answers to questions asked by it; and

(2) a person furnishing cars to a rail carrier to file reports with the Board containing answers to questions about those cars.

(b)(1) An annual report shall contain an account, in as much detail as the Board may require, of the affairs of the rail carrier, lessor, or association for the 12-month period ending on December 31 of each year.

(2) An annual report shall be filed with the Board by the end of the third month after the end of the year for which the report is made unless the Board extends the filing date or changes the period covered by the report. The annual report and, if the Board requires, any other report made under this section, shall be made under oath.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 835.)

PRIOR PROVISIONS

A prior section 11145, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1427; Pub. L. 96–296, § 5(b), July 1, 1980, 94 Stat. 796, related to reports by carriers, lessors, and associations, prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a). See sections 11145, 14123, and 15723 of this title.

SUBCHAPTER IV—RAILROAD COST ACCOUNTING

§ 11161. Implementation of cost accounting principles

The Board shall periodically review its cost accounting rules and shall make such changes in those rules as are required to achieve the regulatory purposes of this part. The Board shall insure that the rules promulgated under this section are the most efficient and least burdensome means by which the required information may be developed for regulatory purposes. To the maximum extent practicable, the Board shall conform such rules to generally accepted accounting principles.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 835.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11163 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

A prior section 11161, added Pub. L. 96–448, title III, § 302(a), Oct. 14, 1980, 94 Stat. 1934, related to Railroad Accounting Principles Board, prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11162 of this title.

§ 11162. Rail carrier cost accounting system

(a) Each rail carrier shall have and maintain a cost accounting system that is in compliance with the rules promulgated by the Board under section 11161 of this title. A rail carrier may, after notifying the Board, make modifications in such system unless, within 60 days after the date of notification, the Board finds such modifications to be inconsistent with the rules promulgated by the Board under section 11161 of this title.

(b) For purposes of determining whether the cost accounting system of a rail carrier is in compliance with the rules promulgated by the Board, the Board shall have the right to examine and make copies of any documents, papers, or records of such rail carrier relating to compliance with such rules. Such documents, papers, and records (and any copies thereof) shall not be subject to the mandatory disclosure requirements of section 552 of title 5.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 836.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11164 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

A prior section 11162, added Pub. L. 96–448, title III, § 302(a), Oct. 14, 1980, 94 Stat. 1935; amended Pub. L. 103–272, § 4(j)(30), July 5, 1994, 108 Stat. 1370, related to cost accounting principles, prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 11163. Cost availability

As required by the rules of the Board governing discovery in Board proceedings, rail carriers shall make relevant cost data available to shippers, States, ports, communities, and other interested parties that are a party to a Board proceeding in which such data are required.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 836.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11165 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

A prior section 11163, added Pub. L. 96–448, title III, § 302(a), Oct. 14, 1980, 94 Stat. 1936; amended Pub. L. 103–272, § 4(j)(31), July 5, 1994, 108 Stat. 1370, related to implementation of cost accounting principles, prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a). See section 11161 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11904 of this title.

§ 11164. Accounting and cost reporting

To obtain expense and revenue information for regulatory purposes, the Board may promulgate reasonable rules for rail carriers providing transportation subject to the jurisdiction of the Board under this part, prescribing expense and revenue accounting and reporting requirements consistent with generally accepted accounting principles uniformly applied to such carriers. Such requirements shall be cost effective and compatible with and not duplicative of the managerial and responsibility accounting requirements of those carriers.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 836.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11166 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

Prior sections 11164 to 11168 were omitted in the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

Section 11164, added Pub. L. 96–448, title III, § 302(a), Oct. 14, 1980, 94 Stat. 1936, related to certification of rail carrier cost accounting systems. See section 11162 of this title.

Section 11165, added Pub. L. 96–448, title III, § 302(a), Oct. 14, 1980, 94 Stat. 1937, related to cost data availability. See section 11163 of this title.

Section 11166, added Pub. L. 96–448, title III, § 302(a), Oct. 14, 1980, 94 Stat. 1937; amended Pub. L. 103–272, § 4(j)(32), July 5, 1994, 108 Stat. 1370, related to accounting and cost reporting. See section 11164 of this title.

Section 11167, added Pub. L. 96–448, title III, § 302(a), Oct. 14, 1980, 94 Stat. 1938; amended Pub. L. 103–272, § 4(j)(33), July 5, 1994, 108 Stat. 1370, related to reports to Congress by Railroad Accounting Principles Board.

Section 11168, added Pub. L. 96–448, title III, § 302(a), Oct. 14, 1980, 94 Stat. 1938, authorized appropriations for fiscal years 1981 to 1983.

CHAPTER 113—FINANCE

SUBCHAPTER I—EQUIPMENT TRUSTS AND SECURITY INTERESTS

Sec.
11301. Equipment trusts: recordation; evidence of indebtedness.

SUBCHAPTER II—COMBINATIONS

11321. Scope of authority.
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SUBCHAPTER I—EQUIPMENT TRUSTS AND SECURITY INTERESTS

§ 11301. Equipment trusts: recordation; evidence of indebtedness

(a) A mortgage (other than a mortgage under chapter 313 of title 46), lease, equipment trust agreement, conditional sales agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of or security interest in vessels, railroad cars, locomotives, or other rolling stock, or accessories used on such railroad cars, locomotives, or other rolling stock (including superstructures and racks), intended for a use related to interstate commerce shall be filed with the Board in order to perfect the security interest that is the subject of such instrument. An assignment of a right or interest under one of those instruments and an amendment to that instrument or assignment including a release, discharge, or satisfaction of any part of it shall also be filed with the Board. The instrument, assignment, or amendment must be in writing, executed by the parties to it, and acknowledged or verified under Board regulations. When filed under this section, that document is notice to, and enforceable against, all persons. A document filed under this section does not have to be filed, deposited, registered, or recorded under another law of the United States, a State (or its political subdivisions), or territory or possession of the United States, related to filing, deposit, registration, or recordation of those documents. This section does not change chapter 313 of title 46.

(b) The Board shall maintain a system for recording each document filed under subsection (a) of this section and mark each of them with a consecutive number and the date and hour of their recordation. The Board shall maintain and keep open for public inspection an index of documents filed under that subsection. That index shall include the name and address of the principal debtors, trustees, guarantors, and other parties to those documents and may include other facts that will assist in determining the rights of the parties to those transactions.

(c) The Board may to the greatest extent practicable perform its functions under this section through contracts with private sector entities.

(d) A mortgage, lease, equipment trust agreement, conditional sales agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of or security interest in vessels, railroad cars, locomotives, or other rolling stock, or accessories used on such railroad cars, locomotives, or other rolling stock (including superstructures and racks), or any assignment thereof, which—

(1) is duly constituted under the laws of a country other than the United States; and

(2) relates to property that bears the reporting marks and identification numbers of any person domiciled in or corporation organized under the laws of such country,

shall be recognized with the same effect as having been filed under this section.

(e) Interests with respect to which documents are filed or recognized under this section are deemed perfected in all jurisdictions, and shall be governed by applicable State or foreign law in all matters not specifically governed by this section.

(f) The Board shall collect, maintain, and keep open for public inspection a railway equipment register consistent with the manner and format maintained by the Interstate Commerce Commission as of January 1, 1996.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 837; amended Pub. L. 104–287, §5(25), Oct. 11, 1996, 110 Stat. 3390.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11303 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11301, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1428; Pub. L. 103–429, §6(16), Oct. 31, 1994, 108 Stat. 4379, related to authority of certain carriers to issue securities and assume obligations and liabilities, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11302, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1430; Pub. L. 96–296, §18(a), July 1, 1980, 96 Stat. 811, provided that section 11301 of this title applied to motor carriers and corporations subject to jurisdiction of Interstate Commerce Commission under former subchapter II of chapter 105 of this title, but did not apply to corporations under a certain capitalization, and that this section did not apply to Federal, State, or local governments, prior to repeal by Pub. L. 97–261, §§19(a), 31(a), Sept. 20, 1982, 96 Stat. 1121, 1129, effective on the 60th day after Sept. 20, 1982.

Prior sections 11303 and 11304 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 11303, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1430; Pub. L. 103–272, §5(m)(30), July 5, 1994, 108 Stat. 1378, related to filing and recording of mortgages, leases, equipment trusts, and other agreements with Interstate Commerce Commission. See section 11301 of this title.

Section 11304, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1431; Pub. L. 96–258, §1(12), June 3, 1980, 94 Stat. 426, related to security interests in certain motor vehicles. See section 14301 of this title.

AMENDMENTS

1996—Subsec. (f). Pub. L. 104–287 substituted ''January 1, 1996'' for ''the effective date of the ICC Termination Act of 1995''.

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 24301 of this title; title 45 sections 726, 791.

SUBCHAPTER II—COMBINATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 10906, 11702 of this title; title 45 section 662.

§ 11321. Scope of authority

(a) The authority of the Board under this subchapter is exclusive. A rail carrier or corporation participating in or resulting from a transaction approved by or exempted by the Board under this subchapter may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A rail carrier, corporation, or person participating in that approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that rail carrier, corporation, or person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction. However, if a purchase and sale, a lease, or a corporate consolidation or merger is involved in the transaction, the carrier or corporation may carry out the transaction only with the assent of a majority, or the number required under applicable State law, of the votes of the holders of the capital stock of that corporation entitled to vote. The vote must occur at a regular meeting, or special meeting called for that purpose, of those stockholders and the notice of the meeting must indicate its purpose.

(b) A power granted under this subchapter to a carrier or corporation is in addition to and changes its powers under its corporate charter and under State law. Action under this subchapter does not establish or provide for establishing a corporation under the laws of the United States.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 838.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11341 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11321, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1432, related to limitations on ownership of certain water carriers, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 11322. Limitation on pooling and division of transportation or earnings

(a) A rail carrier providing transportation subject to the jurisdiction of the Board under this part may not agree or combine with another of those rail carriers to pool or divide traffic or services or any part of their earnings without the approval of the Board under this section or

section 11123 of this title. The Board may approve and authorize the agreement or combination if the rail carriers involved assent to the pooling or division and the Board finds that a pooling or division of traffic, services, or earnings—

(1) will be in the interest of better service to the public or of economy of operation; and

(2) will not unreasonably restrain competition.

(b) The Board may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the rail carriers.

(c) The Board may begin a proceeding under this section on its own initiative or on application.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 838.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11342 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11322, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1433, related to restrictions on officers and directors of carriers, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 11328 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11327, 24301, 24305 of this title.

§ 11323. Consolidation, merger, and acquisition of control

(a) The following transactions involving rail carriers providing transportation subject to the jurisdiction of the Board under this part may be carried out only with the approval and authorization of the Board:

(1) Consolidation or merger of the properties or franchises of at least 2 rail carriers into one corporation for the ownership, management, and operation of the previously separately owned properties.

(2) A purchase, lease, or contract to operate property of another rail carrier by any number of rail carriers.

(3) Acquisition of control of a rail carrier by any number of rail carriers.

(4) Acquisition of control of at least 2 rail carriers by a person that is not a rail carrier.

(5) Acquisition of control of a rail carrier by a person that is not a rail carrier but that controls any number of rail carriers.

(6) Acquisition by a rail carrier of trackage rights over, or joint ownership in or joint use of, a railroad line (and terminals incidental to it) owned or operated by another rail carrier.

(b) A person may carry out a transaction referred to in subsection (a) of this section or participate in achieving the control or management, including the power to exercise control or management, in a common interest of more than one of those rail carriers, regardless of how that result is reached, only with the approval and authorization of the Board under this subchapter. In addition to other transactions, each of the following transactions are considered achievements of control or management:

(1) A transaction by a rail carrier that has the effect of putting that rail carrier and person affiliated with it, taken together, in control of another rail carrier.

(2) A transaction by a person affiliated with a rail carrier that has the effect of putting that rail carrier and persons affiliated with it, taken together, in control of another rail carrier.

(3) A transaction by at least 2 persons acting together (one of whom is a rail carrier or is affiliated with a rail carrier) that has the effect of putting those persons and rail carriers and persons affiliated with any of them, or with any of those affiliated rail carriers, taken together, in control of another rail carrier.

(c) A person is affiliated with a rail carrier under this subchapter if, because of the relationship between that person and a rail carrier, it is reasonable to believe that the affairs of another rail carrier, control of which may be acquired by that person, will be managed in the interest of the other rail carrier.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 838.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11343 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11323, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1433; Pub. L. 99–521, §10(a), (b)(1), Oct. 22, 1986, 100 Stat. 2997, related to limitation on ownership of other carriers by household goods freight forwarders, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 333, 11324, 11327 of this title.

§ 11324. Consolidation, merger, and acquisition of control: conditions of approval

(a) The Board may begin a proceeding to approve and authorize a transaction referred to in section 11323 of this title on application of the person seeking that authority. When an application is filed with the Board, the Board shall notify the chief executive officer of each State in which property of the rail carriers involved in the proposed transaction is located and shall notify those rail carriers. The Board shall hold a public hearing unless the Board determines that a public hearing is not necessary in the public interest.

(b) In a proceeding under this section which involves the merger or control of at least two Class I railroads, as defined by the Board, the Board shall consider at least—

(1) the effect of the proposed transaction on the adequacy of transportation to the public;

(2) the effect on the public interest of including, or failing to include, other rail carriers in the area involved in the proposed transaction;

(3) the total fixed charges that result from the proposed transaction;

(4) the interest of rail carrier employees affected by the proposed transaction; and

(5) whether the proposed transaction would have an adverse effect on competition among rail carriers in the affected region or in the national rail system.

(c) The Board shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Board may impose conditions governing the transaction, including the divestiture of parallel tracks or requiring the granting of trackage rights and access to other facilities. Any trackage rights and related conditions imposed to alleviate anticompetitive effects of the transaction shall provide for operating terms and compensation levels to ensure that such effects are alleviated. When the transaction contemplates a guaranty or assumption of payment of dividends or of fixed charges or will result in an increase of total fixed charges, the Board may approve and authorize the transaction only if it finds that the guaranty, assumption, or increase is consistent with the public interest. The Board may require inclusion of other rail carriers located in the area involved in the transaction if they apply for inclusion and the Board finds their inclusion to be consistent with the public interest.

(d) In a proceeding under this section which does not involve the merger or control of at least two Class I railroads, as defined by the Board, the Board shall approve such an application unless it finds that—

(1) as a result of the transaction, there is likely to be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States; and

(2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.

In making such findings, the Board shall, with respect to any application that is part of a plan or proposal developed under section 333(a)–(d) of this title, accord substantial weight to any recommendations of the Attorney General.

(e) No transaction described in section 11326(b) may have the effect of avoiding a collective bargaining agreement or shifting work from a rail carrier with a collective bargaining agreement to a rail carrier without a collective bargaining agreement.

(f)(1) To the extent provided in this subsection, a proceeding under this subchapter relating to a transaction involving at least one Class I rail carrier shall not be considered an adjudication required by statute to be determined on the record after opportunity for an agency hearing, for the purposes of subchapter II of chapter 5 of title 5, United States Code.

(2) Ex parte communications, as defined in section 551(14) of title 5, United States Code, shall be permitted in proceedings described in paragraph (1) of this subsection, subject to the requirements of paragraph (3) of this subsection.

(3)(A) Any member or employee of the Board who makes or receives a written ex parte communication concerning the merits of a proceeding described in paragraph (1) shall promptly place the communication in the public docket of the proceeding.

(B) Any member or employee of the Board who makes or receives an oral ex parte communication concerning the merits of a proceeding described in paragraph (1) shall promptly place a written summary of the oral communication in the public docket of the proceeding.

(4) Nothing in this subsection shall be construed to require the Board or any of its members or employees to engage in any ex parte communication with any person. Nothing in this subsection or any other law shall be construed to limit the authority of the members or employees of the Board, in their discretion, to note in the docket or otherwise publicly the occurrence and substance of an ex parte communication.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 839.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11344 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 333, 11325, 11326, 11327 of this title; title 45 section 1112.

§ 11325. Consolidation, merger, and acquisition of control: procedure

(a) The Board shall publish notice of the application under section 11324 in the Federal Register by the end of the 30th day after the application is filed with the Board. However, if the application is incomplete, the Board shall reject it by the end of that period. The order of rejection is a final action of the Board. The published notice shall indicate whether the application involves—

(1) the merger or control of at least two Class I railroads, as defined by the Board, to be decided within the time limits specified in subsection (b) of this section;

(2) transactions of regional or national transportation significance, to be decided within the time limits specified in subsection (c) of this section; or

(3) any other transaction covered by this section, to be decided within the time limits specified in subsection (d) of this section.

(b) If the application involves the merger or control of two or more Class I railroads, as defined by the Board, the following conditions apply:

(1) Written comments about an application may be filed with the Board within 45 days after notice of the application is published under subsection (a) of this section. Copies of such comments shall be served on the Attorney General and the Secretary of Transportation, who may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Board by the end of the 15th day after the date of receipt of the written comments.

(2) The Board shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it by the 90th day after publication of notice under that subsection.

(3) The Board must conclude evidentiary proceedings by the end of 1 year after the date

of publication of notice under subsection (a) of this section. The Board must issue a final decision by the 90th day after the date on which it concludes the evidentiary proceedings.

(c) If the application involves a transaction other than the merger or control of at least two Class I railroads, as defined by the Board, which the Board has determined to be of regional or national transportation significance, the following conditions apply:

(1) Written comments about an application, including comments of the Attorney General and the Secretary of Transportation, may be filed with the Board within 30 days after notice of the application is published under subsection (a) of this section.

(2) The Board shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it by the 60th day after publication of notice under that subsection.

(3) The Board must conclude any evidentiary proceedings by the 180th day after the date of publication of notice under subsection (a) of this section. The Board must issue a final decision by the 90th day after the date on which it concludes the evidentiary proceedings.

(d) For all applications under this section other than those specified in subsections (b) and (c) of this section, the following conditions apply:

(1) Written comments about an application, including comments of the Attorney General and the Secretary of Transportation, may be filed with the Board within 30 days after notice of the application is published under subsection (a) of this section.

(2) The Board must conclude any evidentiary proceedings by the 105th day after the date of publication of notice under subsection (a) of this section. The Board must issue a final decision by the 45th day after the date on which it concludes the evidentiary proceedings.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 841.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11345 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11326, 11327 of this title; title 45 section 1112.

§ 11326. Employee protective arrangements in transactions involving rail carriers

(a) Except as otherwise provided in this section, when approval is sought for a transaction under sections 11324 and 11325 of this title, the Board shall require the rail carrier to provide a fair arrangement at least as protective of the interests of employees who are affected by the transaction as the terms imposed under section 5(2)(f) of the Interstate Commerce Act before February 5, 1976, and the terms established under section 24706(c)[1] of this title. Notwithstanding this part, the arrangement may be made by the rail carrier and the authorized representative of its employees. The arrangement and the order approving the transaction must require that the employees of the affected rail carrier will not be in a worse position related to their employment as a result of the transaction during the 4 years following the effective date of the final action of the Board (or if an employee was employed for a lesser period of time by the rail carrier before the action became effective, for that lesser period).

(b) When approval is sought under sections 11324 and 11325 for a transaction involving one Class II and one or more Class III rail carriers, there shall be an arrangement as required under subsection (a) of this section, except that such arrangement shall be limited to one year of severance pay, which shall not exceed the amount of earnings from the railroad employment of that employee during the 12-month period immediately preceding the date on which the application for approval of such transaction is filed with the Board. The amount of such severance pay shall be reduced by the amount of earnings from railroad employment of that employee with the acquiring carrier during the 12-month period immediately following the effective date of the transaction. The parties may agree to terms other than as provided in this subsection.

(c) When approval is sought under sections 11324 and 11325 for a transaction involving only Class III rail carriers, this section shall not apply.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 842.)

REFERENCES IN TEXT

Section 5(2)(f) of the Interstate Commerce Act, referred to in subsec. (a), was classified to section 5(2)(f) of former Title 49, Transportation, prior to repeal and reenactment as section 11347 of this title by Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1439. Section 11347 of this title was subsequently omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 24706(c) of this title, referred to in subsec. (a), was repealed by Pub. L. 105–134, title I, §142(a), Dec. 2, 1997, 111 Stat. 2576.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11347 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5333, 10903, 11324, 11327 of this title.

§ 11327. Supplemental orders

When cause exists, the Board may make appropriate orders supplemental to an order made in a proceeding under sections 11322 through 11326 of this title.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 843.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11351 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

[1] See References in Text note below.

§ 11328. Restrictions on officers and directors

(a) A person may hold the position of officer or director of more than one rail carrier only when authorized by the Board. The Board may authorize a person to hold the position of officer or director of more than one of those carriers when public or private interests will not be adversely affected.

(b) This section shall not apply to an individual holding the position of officer or director only of Class III rail carriers.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 843.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11322 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 11341 to 11351 and 11361 to 11367 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 11341, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1434; Pub. L. 97–261, §21(a), Sept. 20, 1982, 96 Stat. 1122, related to exclusive authority of Interstate Commerce Commission under former sections 11341 to 11351 of this title. See sections 11321, 14302, and 14303 of this title.

Section 11342, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1434; Pub. L. 96–296, §20, July 1, 1980, 94 Stat. 811; Pub. L. 96–454, §5(c), Oct. 15, 1980, 94 Stat. 2014, related to limitation on pooling and division of transportation or earnings. See sections 11322 and 14302 of this title.

Section 11343, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1434; Pub. L. 96–296, §18(b), July 1, 1980, 94 Stat. 811; Pub. L. 97–261, §21(b), Sept. 20, 1982, 96 Stat. 1122, related to consolidation, merger, and acquisition of control. See sections 11323 and 14303 of this title.

Section 11344, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1436; Pub. L. 96–448, title II, §228(a)–(c), Oct. 14, 1980, 94 Stat. 1931; Pub. L. 97–261, §21(f), (g), Sept. 20, 1982, 96 Stat. 1123; Pub. L. 98–216, §2(4), Feb. 14, 1984, 98 Stat. 5, related to general procedures and conditions of approval of consolidations, mergers, and acquisitions of control. See sections 11324 and 14303 of this title.

Section 11345, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1436; Pub. L. 96–448, title II, §228(d), Oct. 14, 1980, 94 Stat. 1932, related to rail carrier procedures in consolidations, mergers, and acquisitions of control. See section 11325 of this title.

Section 11345a, added Pub. L. 96–296, §27(a), July 1, 1980, 94 Stat. 819; amended Pub. L. 97–261, §21(c), (d), Sept. 20, 1982, 96 Stat. 1123, related to motor carrier procedures in consolidations, mergers, and acquisitions of control. See section 14303 of this title.

Section 11346, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1437; Pub. L. 97–449, §5(g)(7), Jan. 12, 1983, 96 Stat. 2443, related to expedited rail carrier procedures in consolidations, mergers, and acquisitions of control.

Section 11347, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1439; Pub. L. 98–216, §2(16), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103–272, §5(m)(31), July 5, 1994, 108 Stat. 1378, related to employee protective arrangements in transactions involving rail carriers. See section 11326 of this title.

Section 11348, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1439; Pub. L. 96–454, §8(b)(1), Oct. 15, 1980, 94 Stat. 2021; Pub. L. 97–261, §19(b), Sept. 20, 1982, 96 Stat. 1121; Pub. L. 97–449, §5(g)(8), Jan. 12, 1983, 96 Stat. 2443; Pub. L. 98–554, title II, §227(a)(3), Oct. 30, 1984, 98 Stat. 2852; Pub. L. 103–272, §5(m)(32), July 5, 1994, 108 Stat. 1378; Pub. L. 103–429, §6(17), Oct. 31, 1994, 108 Stat. 4379, related to Interstate Commerce Commission authority over noncarriers that acquire control of carriers. See section 14303 of this title.

Section 11349, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1439, related to temporary operating approval for transactions involving motor and water carriers. See section 14303 of this title.

Section 11350, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1440, related to responsibility of Secretary of Transportation in certain transactions.

Section 11351, added Pub. L. 96–258, §1(13)(A), June 3, 1980, 94 Stat. 427, related to orders by Interstate Commerce Commission supplemental to orders made in proceedings under former sections 11342 to 11345 and 11347 of this title. See sections 11327 and 14303 of this title.

Section 11361, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1441; Pub. L. 97–449, §5(g)(9), Jan. 12, 1983, 96 Stat. 2443; Pub. L. 98–216, §2(17), Feb. 14, 1984, 98 Stat. 5, related to exclusive authority of Interstate Commerce Commission over financial structure of carriers.

Section 11362, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1441, related to criteria for approval and authority to make changes in carrier financial structure.

Section 11363, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1442, related to assent of holders of securities and certain other instruments to changes in carrier financial structure.

Section 11364, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1443, related to procedure for obtaining assents of security holders to changes in financial structure.

Section 11365, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1443, related to effect of change in financial structure of carrier on other persons.

Section 11366, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1443, related to reports by carriers making change in financial structure.

Section 11367, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1444; Pub. L. 98–216, §2(18), (19), Feb. 14, 1984, 98 Stat. 5, related to application of certain other laws to proposed changes in financial structure of carriers.

CHAPTER 115—FEDERAL-STATE RELATIONS

Sec.
11501. Tax discrimination against rail transportation property.
11502. Withholding State and local income tax by rail carriers.

§ 11501. Tax discrimination against rail transportation property

(a) In this section—

(1) the term ''assessment'' means valuation for a property tax levied by a taxing district;

(2) the term ''assessment jurisdiction'' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

(3) the term ''rail transportation property'' means property, as defined by the Board, owned or used by a rail carrier providing transportation subject to the jurisdiction of the Board under this part; and

(4) the term ''commercial and industrial property'' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy.

(b) The following acts unreasonably burden and discriminate against interstate commerce, and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

(1) Assess rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(2) Levy or collect a tax on an assessment that may not be made under paragraph (1) of this subsection.

(3) Levy or collect an ad valorem property tax on rail transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(4) Impose another tax that discriminates against a rail carrier providing transportation subject to the jurisdiction of the Board under this part.

(c) Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section. Relief may be granted under this subsection only if the ratio of assessed value to true market value of rail transportation property exceeds by at least 5 percent the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. The burden of proof in determining assessed value and true market value is governed by State law. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

(1) an assessment of the rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the assessed value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all other commercial and industrial property; and

(2) the collection of an ad valorem property tax on the rail transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 843.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11503 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11501, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1444; Pub. L. 96–448, title II, §214(a)–(c)(1), Oct. 14, 1980, 94 Stat. 1913, 1915; Pub. L. 97–261, §17(a), Sept. 20, 1982, 96 Stat. 1117; Pub. L. 99–521, §11(a), Oct. 22, 1986, 100 Stat. 2997; Pub. L. 103–272, §4(j)(34), July 5, 1994, 108 Stat. 1370; Pub. L. 103–305, title VI, §601(c), Aug. 23, 1994, 108 Stat. 1606; Pub. L. 103–311, title II, §211(b)(2), Aug. 26, 1994, 108 Stat. 1689, related to Interstate Commerce Commission authority over intrastate transportation, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 14501 of this title.

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

§ 11502. Withholding State and local income tax by rail carriers

(a) No part of the compensation paid by a rail carrier providing transportation subject to the jurisdiction of the Board under this part to an employee who performs regularly assigned duties as such an employee on a railroad in more than one State shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.

(b) A rail carrier withholding pay from an employee under subsection (a) of this section shall file income tax information returns and other reports only with the State and subdivision of residence of the employee.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 844.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11504 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 11502 to 11507 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 11502, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1445, related to conferences and joint hearings with State authorities.

Section 11503, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1445, related to tax discrimination against rail transportation property. See section 11501 of this title.

Section 11503a, added Pub. L. 96–296, §31(a)(1), July 1, 1980, 94 Stat. 823; amended Pub. L. 97–261, §20, Sept. 20, 1982, 96 Stat. 1122, related to tax discrimination against motor carrier transportation property. See section 14502 of this title.

Section 11504, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1446; Pub. L. 97–261, §29(d), Sept. 20, 1982, 96 Stat. 1128; Pub. L. 101–322, §7, July 6, 1990, 104 Stat. 296; Pub. L. 103–272, §5(m)(33), July 5, 1994, 108 Stat. 1378, related to withholding State and local income tax by certain carriers. See sections 11502 and 14503 of this title.

Section 11505, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1448; Pub. L. 99–521, §11(b), Oct. 22, 1986, 100 Stat. 2998, related to State action to enjoin rail carriers from certain actions.

Section 11506, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1448; Pub. L. 102–240, title IV, §4005, Dec. 18, 1991, 105 Stat. 2146, related to registration of motor carriers by a State. See section 14504 of this title.

Section 11507, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1449; Pub. L. 98–473, title II, §233, Oct. 12, 1984, 98 Stat. 2031, related to prison-made property governed by State law.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 24301 of this title.

CHAPTER 117—ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES

Sec.

11701. General authority.
11702. Enforcement by the Board.
11703. Enforcement by the Attorney General.
11704. Rights and remedies of persons injured by rail carriers.
11705. Limitation on actions by and against rail carriers.
11706. Liability of rail carriers under receipts and bills of lading.
11707. Liability when property is delivered in violation of routing instructions.

§ 11701. General authority

(a) Except as otherwise provided in this part, the Board may begin an investigation under this part only on complaint. If the Board finds that a rail carrier is violating this part, the Board shall take appropriate action to compel compliance with this part.

(b) A person, including a governmental authority, may file with the Board a complaint about a violation of this part by a rail carrier providing transportation or service subject to the jurisdiction of the Board under this part. The complaint must state the facts that are the subject of the violation. The Board may dismiss a complaint it determines does not state reasonable grounds for investigation and action. However, the Board may not dismiss a complaint made against a rail carrier providing transportation subject to the jurisdiction of the Board under this part because of the absence of direct damage to the complainant.

(c) A formal investigative proceeding begun by the Board under subsection (a) of this section is dismissed automatically unless it is concluded by the Board with administrative finality by the end of the third year after the date on which it was begun.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 845.)

PRIOR PROVISIONS

A prior section 11701, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1449; Pub. L. 96–296, §26(a), July 1, 1980, 94 Stat. 818; Pub. L. 98–554, title II, §226(c)(4), Oct. 30, 1984, 98 Stat. 2851; Pub. L. 99–521, §12(a), Oct. 22, 1986, 100 Stat. 2998; Pub. L. 100–690, title IX, §9111(i), Nov. 18, 1988, 102 Stat. 4534; Pub. L. 103–272, §5(m)(34), July 5, 1994, 108 Stat. 1378, related to general authority of Interstate Commerce Commission to enforce this subtitle, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 11701, 14701, and 15901 of this title.

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10704, 11103, 11704 of this title.

§ 11702. Enforcement by the Board

The Board may bring a civil action—

(1) to enjoin a rail carrier from violating sections 10901 through 10906 of this title, or a regulation prescribed or order or certificate issued under any of those sections;

(2) to enforce subchapter II of chapter 113 of this title and to compel compliance with an order of the Board under that subchapter; and

(3) to enforce an order of the Board, except a civil action to enforce an order for the payment of money, when it is violated by a rail carrier providing transportation subject to the jurisdiction of the Board under this part.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 845.)

PRIOR PROVISIONS

A prior section 11702, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1450; Pub. L. 96–296, §§15(c), 16(c), July 1, 1980, 94 Stat. 809, 810; Pub. L. 97–261, §25(e), Sept. 20, 1982, 96 Stat. 1125; Pub. L. 98–554, title II, §226(c)(5), Oct. 30, 1984, 98 Stat. 2851; Pub. L. 100–690, title IX, §9111(j), Nov. 18, 1988, 102 Stat. 4534, related to authority of Interstate Commerce Commission to bring a civil action to enforce various provisions of this subtitle, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 11702, 14702, and 15902 of this title.

§ 11703. Enforcement by the Attorney General

(a) The Attorney General may, and on request of the Board shall, bring court proceedings to enforce this part, or a regulation or order of the Board or certificate issued under this part, and to prosecute a person violating this part or a regulation or order of the Board or certificate issued under this part.

(b) The United States Government may bring a civil action on behalf of a person to compel a rail carrier providing transportation subject to the jurisdiction of the Board under this part to provide that transportation to that person in compliance with this part at the same rate charged, or on conditions as favorable as those given by the rail carrier, for like traffic under similar conditions to another person.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 845.)

PRIOR PROVISIONS

A prior section 11703, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1450, related to authority of Attorney General and United States Government to bring civil actions to enforce this subtitle, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 11703, 14703, and 15903 of this title.

§ 11704. Rights and remedies of persons injured by rail carriers

(a) A person injured because a rail carrier providing transportation or service subject to the jurisdiction of the Board under this part does not obey an order of the Board, except an order for the payment of money, may bring a civil action in a United States District Court to enforce that order under this subsection.

(b) A rail carrier providing transportation subject to the jurisdiction of the Board under this part is liable for damages sustained by a person as a result of an act or omission of that carrier in violation of this part. A rail carrier providing transportation subject to the jurisdiction of the Board under this part is liable to a person for amounts charged that exceed the applicable rate for the transportation.

(c)(1) A person may file a complaint with the Board under section 11701(b) of this title or bring a civil action under subsection (b) of this section to enforce liability against a rail carrier providing transportation subject to the jurisdiction of the Board under this part.

(2) When the Board makes an award under subsection (b) of this section, the Board shall order the rail carrier to pay the amount awarded by a specific date. The Board may order a rail carrier providing transportation subject to the jurisdiction of the Board under this part to pay damages only when the proceeding is on complaint. The person for whose benefit an order of the Board requiring the payment of money is made may bring a civil action to enforce that order under

this paragraph if the rail carrier does not pay the amount awarded by the date payment was ordered to be made.

(d)(1) When a person begins a civil action under subsection (b) of this section to enforce an order of the Board requiring the payment of damages by a rail carrier providing transportation subject to the jurisdiction of the Board under this part, the text of the order of the Board must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Board are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district—

(A) in which the plaintiff resides;

(B) in which the principal operating office of the rail carrier is located; or

(C) through which the railroad line of that carrier runs.

In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

(2) All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the rail carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

(3) The district court shall award a reasonable attorney's fee as a part of the damages for which a rail carrier is found liable under this subsection. The district court shall tax and collect that fee as a part of the costs of the action.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 846.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11705 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11704, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1451, related to actions by private persons to enjoin abandonment of service, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11705 of this title.

§ 11705. Limitation on actions by and against rail carriers

(a) A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part must begin a civil action to recover charges for transportation or service provided by the carrier within 3 years after the claim accrues.

(b) A person must begin a civil action to recover overcharges under section 11704(b) of this title within 3 years after the claim accrues, whether or not a complaint is filed under section 11704(c)(1).

(c) A person must file a complaint with the Board to recover damages under section 11704(b) of this title within 2 years after the claim accrues.

(d) The limitation period under subsection (b) of this section is extended for 6 months from the time written notice is given to the claimant by the rail carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the rail carrier within that limitation period. The limitation periods under subsections (b) and (c) of this section are extended for 90 days from the time the rail carrier begins a civil action under subsection (a) of this section to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

(e) A person must begin a civil action to enforce an order of the Board against a rail carrier for the payment of money within one year after the date the order required the money to be paid.

(f) This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the date of—

(1) payment of the rate for the transportation or service involved;

(2) subsequent refund for overpayment of that rate; or

(3) deduction made under section 3726 of title 31, whichever is later.

(g) A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the rail carrier.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 847.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11706 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11705, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1451; Pub. L. 99–521, §12(b), Oct. 22, 1986, 100 Stat. 2998, related to rights and remedies of persons injured by certain carriers, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 11704, 14704, and 15904 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10743 of this title.

§ 11706. Liability of rail carriers under receipts and bills of lading

(a) A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part shall issue a receipt or bill of lading for property it receives for transportation under this part. That rail carrier and any other carrier that delivers the property and is provid-

ing transportation or service subject to the jurisdiction of the Board under this part are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this subsection is for the actual loss or injury to the property caused by—

(1) the receiving rail carrier;

(2) the delivering rail carrier; or

(3) another rail carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading.

Failure to issue a receipt or bill of lading does not affect the liability of a rail carrier. A delivering rail carrier is deemed to be the rail carrier performing the line-haul transportation nearest the destination but does not include a rail carrier providing only a switching service at the destination.

(b) The rail carrier issuing the receipt or bill of lading under subsection (a) of this section or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the rail carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

(c)(1) A rail carrier may not limit or be exempt from liability imposed under subsection (a) of this section except as provided in this subsection. A limitation of liability or of the amount of recovery or representation or agreement in a receipt, bill of lading, contract, or rule in violation of this section is void.

(2) A rail carrier of passengers may limit its liability under its passenger rate for loss or injury of baggage carried on trains carrying passengers.

(3) A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part may establish rates for transportation of property under which—

(A) the liability of the rail carrier for such property is limited to a value established by written declaration of the shipper or by a written agreement between the shipper and the carrier; or

(B) specified amounts are deducted, pursuant to a written agreement between the shipper and the carrier, from any claim against the carrier with respect to the transportation of such property.

(d)(1) A civil action under this section may be brought in a district court of the United States or in a State court.

(2)(A) A civil action under this section may only be brought—

(i) against the originating rail carrier, in the judicial district in which the point of origin is located;

(ii) against the delivering rail carrier, in the judicial district in which the principal place of business of the person bringing the action is located if the delivering carrier operates a railroad or a route through such judicial district, or in the judicial district in which the point of destination is located; and

(iii) against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

(B) In this section, ''judicial district'' means (i) in the case of a United States district court, a judicial district of the United States, and (ii) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.

(e) A rail carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice. For the purposes of this subsection—

(1) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

(2) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reasons for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 847.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11707 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11706, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1452; Pub. L. 97–258, §3(n), Sept. 13, 1982, 96 Stat. 1066; Pub. L. 99–521, §12(c), Oct. 22, 1986, 100 Stat. 2998; Pub. L. 103–180, §3, Dec. 3, 1993, 107 Stat. 2049; Pub. L. 103–429, §6(18), Oct. 31, 1994, 108 Stat. 4379, related to limitation on actions by and against common carriers, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 11705, 14705, and 15905 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10502, 24301 of this title; title 28 sections 1337, 1445.

§ 11707. Liability when property is delivered in violation of routing instructions

(a)(1) When a rail carrier providing transportation subject to the jurisdiction of the Board under this part diverts or delivers property to another rail carrier in violation of routing instructions in the bill of lading, both of those rail carriers are jointly and severally liable to the rail carrier that was deprived of its right to participate in hauling that property for the total amount of the rate it would have received if it participated in hauling the property.

(2) A rail carrier is not liable under paragraph (1) of this subsection when it diverts or delivers

property in compliance with an order or regulation of the Board.

(3) A rail carrier to whom property is transported is not liable under this subsection if it shows that it had no notice of the routing instructions before transporting the property. The burden of proving lack of notice is on that rail carrier.

(b) The court shall award a reasonable attorney's fee to the plaintiff in a judgment against the defendant rail carrier under subsection (a) of this section. The court shall tax and collect that fee as a part of the costs of the action.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 849.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11710 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 11707 to 11712 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 11707, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1453; Pub. L. 96–258, §1(14), June 3, 1980, 94 Stat. 427; Pub. L. 96–296, §26(b), July 1, 1980, 94 Stat. 818; Pub. L. 96–448, title II, §211(c), Oct. 14, 1980, 94 Stat. 1911; Pub. L. 99–521, §12(d), Oct. 22, 1986, 100 Stat. 2998; Pub. L. 100–690, title IX, §9114, Nov. 18, 1988, 102 Stat. 4535, related to liability of common carriers under receipts and bills of lading. See sections 11706, 14706, and 15906 of this title.

Section 11708, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1454; Pub. L. 99–521, §12(e)(1), (2), Oct. 22, 1986, 100 Stat. 2998, related to private enforcement of motor carrier and household goods freight forwarder licensing requirements. See section 14707 of this title.

Section 11709, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1454, related to liability for issuance of securities by certain carriers.

Section 11710, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1455, related to liability when property is delivered in violation of routing instructions. See section 11707 of this title.

Section 11711, added Pub. L. 96–454, §7(a)(1), Oct. 15, 1980, 94 Stat. 2016; amended Pub. L. 97–261, §6(d)(2), Sept. 20, 1982, 96 Stat. 1107, related to dispute settlement program for household goods carriers. See section 14708 of this title.

Section 11712, added Pub. L. 103–180, §4(a), Dec. 3, 1993, 107 Stat. 2049, related to tariff reconciliation rules for motor common carriers of property. See section 14709 of this title.

CHAPTER 119—CIVIL AND CRIMINAL PENALTIES

Sec.
11901. General civil penalties.
11902. Interference with railroad car supply.
11903. Record keeping and reporting violations.
11904. Unlawful disclosure of information.
11905. Disobedience to subpoenas.
11906. General criminal penalty when specific penalty not provided.
11907. Punishment of corporation for violations committed by certain individuals.
11908. Relation to other Federal criminal penalties.

§ 11901. General civil penalties

(a) Except as otherwise provided in this section, a rail carrier providing transportation subject to the jurisdiction of the Board under this part, an officer or agent of that rail carrier, or a receiver, trustee, lessee, or agent of one of them, knowingly violating this part or an order of the Board under this part is liable to the United States Government for a civil penalty of not more than $5,000 for each violation. Liability under this subsection is incurred for each distinct violation. A separate violation occurs for each day the violation continues.

(b) A rail carrier providing transportation subject to the jurisdiction of the Board under this part, or a receiver or trustee of that rail carrier, violating a regulation or order of the Board under section 11124(a)(2) or (b) of this title is liable to the United States Government for a civil penalty of $500 for each violation and for $25 for each day the violation continues.

(c) A person knowingly authorizing, consenting to, or permitting a violation of sections 10901 through 10906 of this title or of a requirement or a regulation under any of those sections, is liable to the United States Government for a civil penalty of not more than $5,000.

(d) A rail carrier, receiver, or operating trustee violating an order or direction of the Board under section 11123 or 11124(a)(1) of this title is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation and for $50 for each day the violation continues.

(e)(1) A person required under subchapter III of chapter 111 of this title to make, prepare, preserve, or submit to the Board a record concerning transportation subject to the jurisdiction of the Board under this part that does not make, prepare, preserve, or submit that record as required under that subchapter, is liable to the United States Government for a civil penalty of $500 for each violation.

(2) A rail carrier providing transportation subject to the jurisdiction of the Board under this part, and a lessor, receiver, or trustee of that rail carrier, violating section 11144(b)(1) of this title, is liable to the United States Government for a civil penalty of $100 for each violation.

(3) A rail carrier providing transportation subject to the jurisdiction of the Board under this part, a lessor, receiver, or trustee of that rail carrier, a person furnishing cars, and an officer, agent, or employee of one of them, required to make a report to the Board or answer a question that does not make the report or does not specifically, completely, and truthfully answer the question, is liable to the United States Government for a civil penalty of $100 for each violation.

(4) A separate violation occurs for each day a violation under this subsection continues.

(f) Trial in a civil action under subsections (a) through (e) of this section 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.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 849.)

PRIOR PROVISIONS

A prior section 11901, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1455; Pub. L. 96–454, §8(a), Oct. 15, 1980, 94 Stat. 2019; Pub. L. 96–510, title III, §306(c), Dec. 11, 1980, 94 Stat. 2810; Pub. L. 97–261, §23, Sept. 20, 1982, 96 Stat. 1124; Pub. L. 98–554, title II, §§226(c)(6), 227(a)(1), Oct. 30, 1984, 98 Stat. 2852; Pub. L. 103–180, §§6(b), 7(c), Dec. 3, 1993, 107 Stat. 2051, 2052, related to general civil pen-

alties, prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a). See sections 11901, 14901, and 16101 of this title.

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

§ 11902. Interference with railroad car supply

(a) A person that offers or gives anything of value to another person acting for or employed by a rail carrier providing transportation subject to the jurisdiction of the Board under this part intending to influence an action of that other person related to supply, distribution, or movement of cars, vehicles, or vessels used in the transportation of property, or because of the action of that other person, shall be fined not more than $1,000, imprisoned for not more than 2 years, or both.

(b) A person acting for or employed by a rail carrier providing transportation subject to the jurisdiction of the Board under this part that solicits, accepts, or receives anything of value—

(1) intending to be influenced by it in an action of that person related to supply, distribution, or movement of cars, vehicles, or vessels used in the transportation of property; or

(2) because of the action of that person,

shall be fined not more than $1,000, imprisoned for not more than 2 years, or both.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 850.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11907 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

Prior sections 11902 and 11902a were omitted in the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

Section 11902, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1457, related to civil penalties for accepting rebates from common carriers. See section 14902 of this title.

Section 11902a, added Pub. L. 96–296, § 15(b)(1), July 1, 1980, 94 Stat. 809, related to penalties for violations of rules relating to loading and unloading motor vehicles. See section 14905 of this title.

§ 11903. Record keeping and reporting violations

A person required to make a report to the Board, or make, prepare, or preserve a record, under subchapter III of chapter 111 of this title about transportation subject to the jurisdiction of the Board under this part 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 Board; or

(5) files a false report or record with the Board,

shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 851.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11909 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

A prior section 11903, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1457, related to rate, discrimination, and tariff violations, prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a). See section 14903 of this title.

§ 11904. Unlawful disclosure of information

(a) A—

(1) rail carrier providing transportation subject to the jurisdiction of the Board under this part, or an officer, agent, or employee of that rail carrier, or another person authorized to receive information from that rail carrier, that knowingly discloses to another person, except the shipper or consignee; or

(2) person who solicits or knowingly receives,

information described in subsection (b) without the consent of the shipper or consignee shall be fined not more than $1,000.

(b) The information referred to in subsection (a) is information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that rail carrier for transportation provided under this part, or information about the contents of a contract authorized under section 10709 of this title, that 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.

(c) This part does not prevent a rail carrier providing transportation subject to the jurisdiction of the Board under this part 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; or

(3) to another rail carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

(d) An employee of the Board delegated to make an inspection or examination under section 11144 of this title who knowingly discloses information acquired during that inspection or examination, except as directed by the Board, a court, or a judge of that court, shall be fined not more than $500, imprisoned for not more than 6 months, or both.

(e) A person that knowingly discloses confidential data made available to such person under section 11163 of this title by a rail carrier providing transportation subject to the jurisdiction of the Board under this part shall be fined not more than $50,000.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 851; amended Pub. L. 105–102, § 2(6), Nov. 20, 1997, 111 Stat. 2204.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:11904(a)(2) to correct a grammatical error.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11910 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11904, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1457; Pub. L. 99–521, §13(a), Oct. 22, 1986, 100 Stat. 2998, related to additional rate and discrimination violations, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 14904 of this title.

AMENDMENTS

1997—Subsec. (a)(2). Pub. L. 105–102 struck out ''a'' before ''person''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 333 of this title.

§ 11905. Disobedience to subpoenas

A person not obeying a subpoena or requirement of the Board to appear and testify or produce records shall be fined at least $100 but not more than $5,000, imprisoned for not more than one year, or both.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 852.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11913 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11905, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1459; Pub. L. 97–261, §29(e), Sept. 20, 1982, 96 Stat. 1128, related to transportation of passengers without charge, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 11906. General criminal penalty when specific penalty not provided

When another criminal penalty is not provided under this chapter, a rail carrier providing transportation subject to the jurisdiction of the Board under this part, and when that rail carrier is a corporation, a director or officer of the corporation, or a receiver, trustee, lessee, or person acting for or employed by the corporation that, alone or with another person, willfully violates this part or an order prescribed under this part, shall be fined not more than $5,000. The person may be imprisoned for not more than 2 years in addition to being fined under this section. A separate violation occurs each day a violation of this part continues.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 852; amended Pub. L. 105–102, §2(7), Nov. 20, 1997, 111 Stat. 2204.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:11906 to correct an erroneous cross-reference.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11914 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11906, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1459, related to evasion of regulation of motor carriers and brokers, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 14906 of this title.

AMENDMENTS

1997—Pub. L. 105–102 substituted ''violation of this part'' for ''violation of this title''.

§ 11907. Punishment of corporation for violations committed by certain individuals

An act or omission that would be a violation of this part if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a rail carrier providing transportation or service subject to the jurisdiction of the Board under this part that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that rail carrier are considered to be the actions and omissions of that rail carrier as well as that individual.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 852.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11915 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11907, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1459, related to interference with railroad car supply, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See section 11902 of this title.

§ 11908. Relation to other Federal criminal penalties

Notwithstanding section 3571 of title 18, United States Code, the criminal penalties provided for in this chapter are the exclusive criminal penalties for violations of this part.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 852.)

PRIOR PROVISIONS

Prior sections 11908 to 11917 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 11908, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1459; Pub. L. 99–521, §13(b)(1), (2), Oct. 22, 1986, 100 Stat. 2998, 2999, related to penalty for abandonment of service by household goods freight forwarders.

Section 11909, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1460; Pub. L. 96–258, §1(15), June 3, 1980, 94 Stat. 427; Pub. L. 97–424, title IV, §427(a), Jan. 6, 1983, 96 Stat. 2168; Pub. L. 98–216, §2(20), Feb. 14, 1984, 98 Stat. 6; Pub. L. 99–521, §13(c), Oct. 22, 1986, 100 Stat. 2999; Pub. L. 103–180, §6(c), Dec. 3, 1993, 107 Stat. 2051; Pub. L. 103–272, §4(j)(35), July 5, 1994, 108 Stat. 1370, related to penalties for record keeping and reporting violations. See sections 11903, 14907, and 16102 of this title.

Section 11910, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1461; Pub. L. 96–448, title III, §303(b), Oct. 14, 1980, 94 Stat. 1938; Pub. L. 99–521, §13(d), Oct. 22, 1986, 100 Stat. 2999, related to penalties for unlawful disclosure of information. See sections 11904, 14908, and 16103 of this title.

Section 11911, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1462; Pub. L. 97–261, §19(c), Sept. 20, 1982, 96 Stat. 1121, related to penalties for violations involving issuance of securities, disposition of funds, and restrictions on ownership.

Section 11912, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1462; Pub. L. 96–258, §1(13)(C), June 3, 1980, 94 Stat. 427, related to penalties for violations by persons, not carriers, involving consolidations, mergers, and acquisitions of control.

Section 11913, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1463, related to penalty for disobedience to subpenas. See sections 11905, 14909, and 16104 of this title.

Section 11913a, added Pub. L. 96–448, title III, §303(a)(1), Oct. 14, 1980, 94 Stat. 1938, related to penalty for accounting principles violations.

Section 11914, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1463; Pub. L. 96–258, §1(16), June 3, 1980, 94 Stat. 427; Pub. L. 97–424, title IV, §427(b), Jan. 6, 1983, 96 Stat. 2168; Pub. L. 98–216, §2(20), Feb. 14, 1984, 98 Stat. 6; Pub. L. 98–554, title II, §226(c)(7), Oct. 30, 1984, 98 Stat. 2852, related to general criminal penalty when specific penalty not provided. See sections 11906, 14910, and 16105 of this title.

Section 11915, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1464, related to punishment of corporation for violations committed by certain individuals. See sections 11907, 14911, and 16106 of this title.

Section 11916, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1464, related to conclusiveness of rates in certain prosecutions. See section 14913 of this title.

Section 11917, added Pub. L. 96–454, §9(a), Oct. 15, 1980, 94 Stat. 2021, related to weight-bumping in household goods transportation. See section 14912 of this title.

PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

AMENDMENTS

1996—Pub. L. 104–287, §5(26)(A), Oct. 11, 1996, 110 Stat. 3390, made technical amendment to part heading.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 28 section 2342; title 29 section 1841.

CHAPTER 131—GENERAL PROVISIONS

Sec.
13101. Transportation policy.
13102. Definitions.
13103. Remedies as cumulative.

AMENDMENTS

1996—Pub. L. 104–287, §5(26)(B), Oct. 11, 1996, 110 Stat. 3390, made technical amendment to heading.

§ 13101. Transportation policy

(a) IN GENERAL.—To ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States, including the United States Postal Service and national defense, it is the policy of the United States Government to oversee the modes of transportation and—

(1) in overseeing those modes—

(A) to recognize and preserve the inherent advantage of each mode of transportation;

(B) to promote safe, adequate, economical, and efficient transportation;

(C) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

(D) to encourage the establishment and maintenance of reasonable rates for transportation, without unreasonable discrimination or unfair or destructive competitive practices;

(E) to cooperate with each State and the officials of each State on transportation matters; and

(F) to encourage fair wages and working conditions in the transportation industry;

(2) in overseeing transportation by motor carrier, to promote competitive and efficient transportation services in order to—

(A) encourage fair competition, and reasonable rates for transportation by motor carriers of property;

(B) promote efficiency in the motor carrier transportation system and to require fair and expeditious decisions when required;

(C) meet the needs of shippers, receivers, passengers, and consumers;

(D) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping and traveling public;

(E) allow the most productive use of equipment and energy resources;

(F) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions;

(G) provide and maintain service to small communities and small shippers and intrastate bus services;

(H) provide and maintain commuter bus operations;

(I) improve and maintain a sound, safe, and competitive privately owned motor carrier system;

(J) promote greater participation by minorities in the motor carrier system;

(K) promote intermodal transportation;

(3) in overseeing transportation by motor carrier of passengers—

(A) to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this part;

(B) to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this part; and

(C) to ensure that Federal reform initiatives enacted by section 31138 and the Bus Regulatory Reform Act of 1982 are not nullified by State regulatory actions; and

(4) in overseeing transportation by water carrier, to encourage and promote service and price competition in the noncontiguous domestic trade.

(b) ADMINISTRATION TO CARRY OUT POLICY.—This part shall be administered and enforced to carry out the policy of this section and to promote the public interest.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 853.)

REFERENCES IN TEXT

The Bus Regulatory Reform Act of 1982, referred to in subsec. (a)(3)(C), is Pub. L. 97–261, Sept. 20, 1982, 96 Stat. 1102. For complete classification of this Act to the Code, see Short Title of 1982 Amendment note set out under section 10101 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10101 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 302, 13506, 13541, 13703 of this title; title 33 section 1803.

§ 13102. Definitions

In this part, the following definitions shall apply:

(1) BOARD.—The term ''Board'' means the Surface Transportation Board.

(2) BROKER.—The term ''broker'' means a person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation.

(3) CARRIER.—The term ''carrier'' means a motor carrier, a water carrier, and a freight forwarder.

(4) CONTRACT CARRIAGE.—The term ''contract carriage'' means—

(A) for transportation provided before January 1, 1996, service provided pursuant to a permit issued under section 10923, as in effect on December 31, 1995; and

(B) for transportation provided after December 31, 1995, service provided under an agreement entered into under section 14101(b).

(5) CONTROL.—The term ''control'', when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by—

(A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or

(B) any other means.

(6) FOREIGN MOTOR CARRIER.—The term ''foreign motor carrier'' means a person (including a motor carrier of property but excluding a motor private carrier)—

(A)(i) that is domiciled in a contiguous foreign country; or

(ii) that is owned or controlled by persons of a contiguous foreign country; and

(B) in the case of a person that is not a motor carrier of property, that provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a motor carrier of property (other than a motor private carrier or a motor carrier of property described in subparagraph (A)).

(7) FOREIGN MOTOR PRIVATE CARRIER.—The term ''foreign motor private carrier'' means a person (including a motor private carrier but excluding a motor carrier of property)—

(A)(i) that is domiciled in a contiguous foreign country; or

(ii) that is owned or controlled by persons of a contiguous foreign country; and

(B) in the case of a person that is not a motor private carrier, that provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a person (other than a motor carrier of property or a motor private carrier described in subparagraph (A)).

(8) FREIGHT FORWARDER.—The term ''freight forwarder'' means a person holding itself out to the general public (other than as a pipeline, rail, motor, or water carrier) to provide transportation of property for compensation and in the ordinary course of its business—

(A) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments;

(B) assumes responsibility for the transportation from the place of receipt to the place of destination; and

(C) uses for any part of the transportation a carrier subject to jurisdiction under this subtitle.

The term does not include a person using transportation of an air carrier subject to part A of subtitle VII.

(9) HIGHWAY.—The term ''highway'' means a road, highway, street, and way in a State.

(10) HOUSEHOLD GOODS.—The term ''household goods'', as used in connection with transportation, means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property if the transportation of such effects or property is—

(A) arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his or her dwelling, or

(B) arranged and paid for by another party.

(11) HOUSEHOLD GOODS FREIGHT FORWARDER.—The term ''household goods freight forwarder'' means a freight forwarder of one or more of the following items: household goods, unaccompanied baggage, or used automobiles.

(12) MOTOR CARRIER.—The term ''motor carrier'' means a person providing motor vehicle transportation for compensation.

(13) MOTOR PRIVATE CARRIER.—The term ''motor private carrier'' means a person, other than a motor carrier, transporting property by motor vehicle when—

(A) the transportation is as provided in section 13501 of this title;

(B) the person is the owner, lessee, or bailee of the property being transported; and

(C) the property is being transported for sale, lease, rent, or bailment or to further a commercial enterprise.

(14) MOTOR VEHICLE.—The term ''motor vehicle'' means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway in transportation, or a combination determined by the Secretary, but does not include a vehicle, locomotive, or car operated only on a rail, or a trolley bus operated by electric power from a fixed overhead wire, and providing local passenger transportation similar to street-railway service.

(15) NONCONTIGUOUS DOMESTIC TRADE.—The term ''noncontiguous domestic trade'' means transportation subject to jurisdiction under chapter 135 involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States.

(16) PERSON.—The term ''person'', in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person.

(17) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(18) STATE.—The term ''State'' means the 50 States of the United States and the District of Columbia.

(19) TRANSPORTATION.—The term ''transportation'' includes—

(A) a motor vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, regardless of ownership or an agreement concerning use; and

(B) services related to that movement, including arranging for, receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, packing, unpacking, and interchange of passengers and property.

(20) UNITED STATES.—The term ''United States'' means the States of the United States and the District of Columbia.

(21) VESSEL.—The term ''vessel'' means a watercraft or other artificial contrivance that is used, is capable of being used, or is intended to be used, as a means of transportation by water.

(22) WATER CARRIER.—The term ''water carrier'' means a person providing water transportation for compensation.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 854; amended Pub. L. 104–287, § 5(27), Oct. 11, 1996, 110 Stat. 3390.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287, § 5(27)(A)

This amends 49:13102(4)(A) by setting out the effective date of the ICC Termination Act of 1995 (Public Law 104–88, 109 Stat. 803) and the day before that date.

PUB. L. 104–287, § 5(27)(B)

This amends 49:13102(4)(B) for clarity and consistency.

REFERENCES IN TEXT

Section 10923, referred to in par. (4)(A), was omitted in the general amendment of this subtitle by Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10102 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

AMENDMENTS

1996—Par. (4)(A). Pub. L. 104–287, § 5(27)(A), substituted ''January 1, 1996'' for ''the effective date of this section'' and ''December 31, 1995'' for ''the day before the effective date of this section''.

Par. (4)(B). Pub. L. 104–287, § 5(27)(B), substituted ''after December 31, 1995'' for ''on or after such date''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 501, 5102, 5901, 14101, 14706, 41713 of this title; title 18 section 921; title 29 section 186; title 39 section 5201; title 42 section 4917.

§ 13103. Remedies as cumulative

Except as otherwise provided in this part, the remedies provided under this part are in addition to remedies existing under another law or common law.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 856.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10103 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

CHAPTER 133—ADMINISTRATIVE PROVISIONS

Sec.
13301. Powers.
13302. Intervention.
13303. Service of notice in proceedings.
13304. Service of process in court proceedings.

§ 13301. Powers

(a) GENERAL POWERS OF SECRETARY.—Except as otherwise specified, the Secretary shall carry out this part. Enumeration of a power of the Secretary in this part does not exclude another power the Secretary may have in carrying out this part. The Secretary may prescribe regulations in carrying out this part.

(b) OBTAINING INFORMATION.—The Secretary may obtain from carriers providing, and brokers for, transportation and service subject to this part, and from persons controlling, controlled by, or under common control with those carriers or brokers to the extent that the business of that person is related to the management of the business of that carrier or broker, information the Secretary decides is necessary to carry out this part.

(c) SUBPOENA POWER.—

(1) BY SECRETARY.—The Secretary may subpoena witnesses and records related to a proceeding under this part from any place in the United States, to the designated place of the proceeding. If a witness disobeys a subpoena, the Secretary, or a party to a proceeding under this part, may petition a court of the United States to enforce that subpoena.

(2) ENFORCEMENT.—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) TESTIMONY OF WITNESSES.—

(1) PROCEDURE FOR TAKING TESTIMONY.—In a proceeding under this part, the Secretary may take the testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding pending under this part 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) SUBPOENA.—If a witness fails to be deposed or to produce records under paragraph (1) of this subsection, the Secretary may subpoena the witness to take a deposition, produce the records, or both.

(3) DEPOSITIONS.—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) NOTICE OF DEPOSITION.—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) TRANSCRIPT.—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) FOREIGN COUNTRY.—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. A deposition shall be filed with the Secretary promptly.

(e) WITNESS FEES.—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.

(f) POWERS OF BOARD.—For those provisions of this part that are specified to be carried out by the Board, the Board shall have the same powers as the Secretary has under this section.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 856.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10321 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

§ 13302. Intervention

Under regulations of the Secretary, reasonable notice of, and an opportunity to intervene and participate in, a proceeding under this part related to transportation subject to jurisdiction under subchapter I of chapter 135 shall be given to interested persons.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 858.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10328 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 13303. Service of notice in proceedings

(a) AGENTS FOR SERVICE OF PROCESS.—A carrier, a broker, or a freight forwarder providing transportation or service subject to jurisdiction under chapter 135 shall designate, in writing, an agent by name and post office address on whom service of notices in a proceeding before, and of actions of, the Secretary may be made.

(b) FILING WITH STATE.—A motor carrier providing transportation under this part shall also file the designation with the appropriate authority of each State in which it operates. The designation may be changed at any time in the same manner as originally made.

(c) NOTICE.—A notice to a motor carrier, freight forwarder, or broker shall be served personally or by mail on the motor carrier, freight forwarder, or broker or on its designated agent. Service by mail on the designated agent shall be 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 a motor carrier, freight forwarder, or broker does not have a designated agent, service may be made by posting a copy of the notice at the headquarters of the Department of Transportation.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 858.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10329 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13906 of this title.

§ 13304. Service of process in court proceedings

(a) DESIGNATION OF AGENT.—A motor carrier or broker providing transportation subject to jurisdiction under chapter 135, including a motor carrier or broker operating within 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 or broker. The designation shall be in writing and filed with the Department of Transportation and each State in which the carrier operates may require that an additional designation be filed with it. If a designation under this subsection is not made, service may be made on any agent of the carrier or broker within that State.

(b) CHANGE.—A designation under this section may be changed at any time in the same manner as originally made.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 858.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10330 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13906, 13908 of this title.

CHAPTER 135—JURISDICTION

SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

Sec.
13501. General jurisdiction.
13502. Exempt transportation between Alaska and other States.

Sec.
13503. Exempt motor vehicle transportation in terminal areas.
13504. Exempt motor carrier transportation entirely in one State.
13505. Transportation furthering a primary business.
13506. Miscellaneous motor carrier transportation exemptions.
13507. Mixed loads of regulated and unregulated property.
13508. Limited authority over cooperative associations.

SUBCHAPTER II—WATER CARRIER TRANSPORTATION

13521. General jurisdiction.

SUBCHAPTER III—FREIGHT FORWARDER SERVICE

13531. General jurisdiction.

SUBCHAPTER IV—AUTHORITY TO EXEMPT

13541. Authority to exempt transportation or services.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 13102, 13303, 13304, 13701, 13702, 13703, 14101, 14121, 14704, 14705, 14902, 14903, 14908, 14911 of this title.

SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 13302, 13703, 13704, 13705, 13708, 13709, 13711, 13901, 13902, 13904, 14102, 14103, 14104, 14302, 14303, 14501, 14502, 14503, 14504, 14702, 14706, 14708, 14709, 14901, 14904, 14907, 14908, 14910, 14912, 30103, 30166, 31503, 32706 of this title; title 15 section 5904.

§ 13501. General jurisdiction

The Secretary and the Board have jurisdiction, as specified in this part, over transportation by motor carrier and the procurement of that transportation, to the extent that passengers, property, or both, are transported by motor carrier—

(1) between a place in—

(A) a State and a place in another State;

(B) a State and another place in the same State through another State;

(C) the United States and a place in a territory or possession of the United States to the extent the transportation is in the United States;

(D) the United States and another place in the United States through a foreign country to the extent the transportation is in the United States; or

(E) the United States and a place in a foreign country to the extent the transportation is in the United States; and

(2) in a reservation under the exclusive jurisdiction of the United States or on a public highway.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 859.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10521 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13102, 13502, 13711, 14504, 31501, 31502 of this title.

§ 13502. Exempt transportation between Alaska and other States

To the extent that transportation by a motor carrier between a place in Alaska and a place in another State under section 13501 is provided in a foreign country—

(1) neither the Secretary nor the Board has jurisdiction to impose a requirement over conduct of the motor carrier in the foreign country conflicting with a requirement of that country; but

(2) the motor carrier, as a condition of providing transportation in the United States, shall comply, with respect to all transportation provided between Alaska and the other State, with the requirements of this part related to rates and practices applicable to the transportation.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 859.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10522 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13908, 31502 of this title.

§ 13503. Exempt motor vehicle transportation in terminal areas

(a) TRANSPORTATION BY CARRIERS.—

(1) IN GENERAL.—Neither the Secretary nor the Board has jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

(A) is a transfer, collection, or delivery;

(B) is provided by—

(i) a rail carrier subject to jurisdiction under chapter 105;

(ii) a water carrier subject to jurisdiction under subchapter II of this chapter; or

(iii) a freight forwarder subject to jurisdiction under subchapter III of this chapter; and

(C) is incidental to transportation or service provided by the carrier or freight forwarder that is subject to jurisdiction under chapter 105 of this title or under subchapter II or III of this chapter.

(2) APPLICABILITY OF OTHER PROVISIONS.—Transportation exempt from jurisdiction under paragraph (1) of this subsection is subject to jurisdiction under chapter 105 when provided by such a rail carrier, under subchapter II of this chapter when provided by such a water carrier, and under subchapter III of this chapter when provided by such a freight forwarder.

(b) TRANSPORTATION BY AGENT.—

(1) IN GENERAL.—Except to the extent provided by paragraph (2) of this subsection, neither the Secretary nor the Board has jurisdic-

tion under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

(A) is a transfer, collection, or delivery; and

(B) is provided by a person as an agent or under other arrangement for—

(i) a rail carrier subject to jurisdiction under chapter 105 of this title;

(ii) a motor carrier subject to jurisdiction under this subchapter;

(iii) a water carrier subject to jurisdiction under subchapter II of this chapter; or

(iv) a freight forwarder subject to jurisdiction under subchapter III of this chapter.

(2) TREATMENT OF TRANSPORTATION BY PRINCIPAL.—Transportation exempt from jurisdiction under paragraph (1) of this subsection is considered transportation provided by the carrier or service provided by the freight forwarder for whom the transportation was provided and is subject to jurisdiction under chapter 105 of this title when provided for such a rail carrier, under this subchapter when provided for such a motor carrier, under subchapter II of this chapter when provided for such a water carrier, and under subchapter III of this chapter when provided for such a freight forwarder.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 860.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10523 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13504, 13908 of this title.

§ 13504. Exempt motor carrier transportation entirely in one State

Neither the Secretary nor the Board has jurisdiction under this subchapter over transportation, except transportation of household goods, by a motor carrier operating solely within the State of Hawaii. The State of Hawaii may regulate transportation exempt from jurisdiction under this section and, to the extent provided by a motor carrier operating solely within the State of Hawaii, transportation exempt under section 13503 of this title.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 860.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10525 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 13505. Transportation furthering a primary business

(a) IN GENERAL.—Neither the Secretary nor the Board has jurisdiction under this part over the transportation of property by motor vehicle when—

(1) the property is transported by a person engaged in a business other than transportation; and

(2) the transportation is within the scope of, and furthers a primary business (other than transportation) of the person.

(b) CORPORATE FAMILIES.—

(1) IN GENERAL.—Neither the Secretary nor the Board has jurisdiction under this part over transportation of property by motor vehicle for compensation provided by a person who is a member of a corporate family for other members of such corporate family.

(2) DEFINITION.—In this section, ''corporate family'' means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a 100 percent interest.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 861.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10524 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 13506. Miscellaneous motor carrier transportation exemptions

(a) IN GENERAL.—Neither the Secretary nor the Board has jurisdiction under this part over—

(1) a motor vehicle transporting only school children and teachers to or from school;

(2) a motor vehicle providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places;

(3) a motor vehicle owned or operated by or for a hotel and only transporting hotel patrons between the hotel and the local station of a carrier;

(4) a motor vehicle controlled and operated by a farmer and transporting—

(A) the farmer's agricultural or horticultural commodities and products; or

(B) supplies to the farm of the farmer;

(5) a motor vehicle controlled and operated by a cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a))) or by a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association, except that if the cooperative association or federation provides transportation for compensation between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State—

(A) for a nonmember that is not a farmer, cooperative association, federation, or the United States Government, the transportation (except for transportation otherwise exempt under this subchapter)—

(i) shall be limited to transportation incidental to the primary transportation operation of the cooperative association or federation and necessary for its effective performance; and

(ii) may not exceed in each fiscal year 25 percent of the total transportation of the cooperative association or federation between those places, measured by tonnage; and

(B) the transportation for all nonmembers may not exceed in each fiscal year, meas-

ured by tonnage, the total transportation between those places for the cooperative association or federation and its members during that fiscal year;

(6) transportation by motor vehicle of—

(A) ordinary livestock;

(B) agricultural or horticultural commodities (other than manufactured products thereof);

(C) commodities listed as exempt in the Commodity List incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, other than frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, or wool imported from a foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted);

(D) cooked or uncooked fish, whether breaded or not, or frozen or fresh shellfish, or byproducts thereof not intended for human consumption, other than fish or shellfish that have been treated for preserving, such as canned, smoked, pickled, spiced, corned, or kippered products; and

(E) livestock and poultry feed and agricultural seeds and plants, if such products (excluding products otherwise exempt under this paragraph) are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production;

(7) a motor vehicle used only to distribute newspapers;

(8)(A) transportation of passengers by motor vehicle incidental to transportation by aircraft;

(B) transportation of property (including baggage) by motor vehicle as part of a continuous movement which, prior or subsequent to such part of the continuous movement, has been or will be transported by an air carrier or (to the extent so agreed by the United States and approved by the Secretary) by a foreign air carrier; or

(C) transportation of property by motor vehicle in lieu of transportation by aircraft because of adverse weather conditions or mechanical failure of the aircraft or other causes due to circumstances beyond the control of the carrier or shipper;

(9) the operation of a motor vehicle in a national park or national monument;

(10) a motor vehicle carrying not more than 15 individuals in a single, daily roundtrip to commute to and from work;

(11) transportation of used pallets and used empty shipping containers (including intermodal cargo containers), and other used shipping devices (other than containers or devices used in the transportation of motor vehicles or parts of motor vehicles);

(12) transportation of natural, crushed, vesicular rock to be used for decorative purposes;

(13) transportation of wood chips;

(14) brokers for motor carriers of passengers, except as provided in section 13904(d); or

(15) transportation of broken, crushed, or powdered glass.

(b) EXEMPT UNLESS OTHERWISE NECESSARY.—Except to the extent the Secretary or Board, as applicable, finds it necessary to exercise jurisdiction to carry out the transportation policy of section 13101, neither the Secretary nor the Board has jurisdiction under this part over—

(1) transportation provided entirely in a municipality, in contiguous municipalities, or in a zone that is adjacent to, and commercially a part of, the municipality or municipalities, except—

(A) when the transportation is under common control, management, or arrangement for a continuous carriage or shipment to or from a place outside the municipality, municipalities, or zone; or

(B) that in transporting passengers over a route between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State, the transportation is exempt from jurisdiction under this part only if the motor carrier operating the motor vehicle also is lawfully providing intrastate transportation of passengers over the entire route under the laws of each State through which the route runs;

(2) transportation by motor vehicle provided casually, occasionally, or reciprocally but not as a regular occupation or business, except when a broker or other person sells or offers for sale passenger transportation provided by a person authorized to transport passengers by motor vehicle under an application pending, or registration issued, under this part; or

(3) the emergency towing of an accidentally wrecked or disabled motor vehicle.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 861; amended Pub. L. 105–102, § 2(8), Nov. 20, 1997, 111 Stat. 2204.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:13506(a)(5) to correct a grammatical error.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10526 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

AMENDMENTS

1997—Subsec. (a)(5). Pub. L. 105–102 substituted ''1141j(a)))'' for ''1141j(a))''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13507, 13508, 13908 of this title.

§ 13507. Mixed loads of regulated and unregulated property

A motor carrier of property providing transportation exempt from jurisdiction under para-

graph (6), (8), (11), (12), or (13) of section 13506(a) may transport property under such paragraph in the same vehicle and at the same time as property which the carrier is authorized to transport under a registration issued under section 13902(a). Such transportation shall not affect the unregulated status of such exempt property or the regulated status of the property which the carrier is authorized to transport under such registration.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 863.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10528 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 13508. Limited authority over cooperative associations

(a) IN GENERAL.—Notwithstanding section 13506(a)(5), any cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a))) or a federation of cooperative associations shall prepare and maintain such records relating to transportation provided by such association or federation, in such form as the Secretary or the Board may require by regulation to carry out the provisions of such section 13506(a)(5). The Secretary or the Board, or an employee designated by the Secretary or the Board, may on demand and display of proper credentials—

(1) inspect and examine the lands, buildings, and equipment of such association or federation; and

(2) inspect and copy any record of such association or federation.

(b) REPORTS.—Notwithstanding section 13506(a)(5), the Secretary or the Board may require a cooperative association or federation of cooperative associations described in subsection (a) of this section to file reports with the Secretary or the Board containing answers to questions about transportation provided by such association or federation.

(c) ENFORCEMENT.—The Secretary or the Board may bring a civil action to enforce subsections (a) and (b) of this section or a regulation or order of the Secretary or the Board issued under this section, when violated by a cooperative association or federation of cooperative associations described in subsection (a).

(d) REPORTING PENALTIES.—

(1) IN GENERAL.—A person required to make a report to the Secretary or the Board, answer a question, or maintain a record under this section, or an officer, agent, or employee of that person, that—

(A) does not make the report;

(B) does not specifically, completely, and truthfully answer the question; or

(C) does not maintain the record in the form and manner prescribed under this section;

is liable to the United States for a civil penalty of not more than $500 for each violation and for not more than $250 for each additional day the violation continues.

(2) VENUE.—Trial in a civil action under paragraph (1) shall be in the judicial district in which—

(A) the cooperative association or federation of cooperative associations has its principal office;

(B) the violation occurred; or

(C) the offender is found.

Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

(e) EVASION PENALTIES.—A person, or an officer, employee, or agent of that person, that by any means knowingly and willfully tries to evade compliance with the provisions of this section shall be fined at least $200 but not more than $500 for the first violation and at least $250 but not more than $2,000 for a subsequent violation.

(f) RECORDKEEPING PENALTIES.—A person required to make a report, answer a question, or maintain a record under this section, or an officer, agent, or employee of that person, that—

(1) willfully does not make that report;

(2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date that the question is required to be answered;

(3) willfully does not maintain that record in the form and manner prescribed;

(4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record;

(5) knowingly and willfully files a false report or record under this section;

(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 maintains a record in violation of a regulation or order issued under this section;

shall be fined not more than $5,000.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 863.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10529 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SUBCHAPTER II—WATER CARRIER TRANSPORTATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 13503, 14503, 14908, 14914 of this title; title 26 section 7701; title 46 App. section 883–1.

§ 13521. General jurisdiction

(a) GENERAL RULES.—The Secretary and the Board have jurisdiction over transportation insofar as water carriers are concerned—

(1) by water carrier between a place in a State and a place in another State, even if part of the transportation is outside the United States;

(2) by water carrier and motor carrier from a place in a State to a place in another State; except that if part of the transportation is outside the United States, the Secretary only has jurisdiction over that part of the transportation provided—

(A) by motor carrier that is in the United States; and

(B) by water carrier that is from a place in the United States to another place in the United States; and

(3) by water carrier or by water carrier and motor carrier between a place in the United States and a place outside the United States, to the extent that—

(A) when the transportation is by motor carrier, the transportation is provided in the United States;

(B) when the transportation is by water carrier to a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States before transshipment from a place in the United States to a place outside the United States; and

(C) when the transportation is by water carrier from a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States after transshipment to a place in the United States from a place outside the United States.

(b) DEFINITIONS.—In this section, the terms ''State'' and ''United States'' include the territories and possessions of the United States.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 865.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10541 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SUBCHAPTER III—FREIGHT FORWARDER SERVICE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 13503, 13702, 13703, 13901, 13903, 14702, 14706, 14708, 14901, 14904, 14907, 14908, 14910, 14912 of this title.

§ 13531. General jurisdiction

(a) IN GENERAL.—The Secretary and the Board have jurisdiction, as specified in this part, over service that a freight forwarder undertakes to provide, or is authorized or required under this part to provide, to the extent transportation is provided in the United States and is between—

(1) a place in a State and a place in another State, even if part of the transportation is outside the United States;

(2) a place in a State and another place in the same State through a place outside the State; or

(3) a place in the United States and a place outside the United States.

(b) EXEMPTION OF CERTAIN AIR CARRIER SERVICE.—Neither the Secretary nor the Board has jurisdiction under subsection (a) of this section over service undertaken by a freight forwarder using transportation of an air carrier subject to part A of subtitle VII of this title.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 865.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10561 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SUBCHAPTER IV—AUTHORITY TO EXEMPT

§ 13541. Authority to exempt transportation or services

(a) IN GENERAL.—In any matter subject to jurisdiction under this part, the Secretary or the Board, as applicable, shall exempt a person, class of persons, or a transaction or service from the application, in whole or in part, of a provision of this part, or use this exemption authority to modify the application of a provision of this part as it applies to such person, class, transaction, or service, when the Secretary or Board finds that the application of that provision—

(1) is not necessary to carry out the transportation policy of section 13101;

(2) is not needed to protect shippers from the abuse of market power or that the transaction or service is of limited scope; and

(3) is in the public interest.

(b) INITIATION OF PROCEEDING.—The Secretary or Board, as applicable, may, where appropriate, begin a proceeding under this section on the Secretary's or Board's own initiative or on application by an interested party.

(c) PERIOD OF EXEMPTION.—The Secretary or Board, as applicable, may specify the period of time during which an exemption granted under this section is effective.

(d) REVOCATION.—The Secretary or Board, as applicable, may revoke an exemption, to the extent specified, on finding that application of a provision of this part to the person, class, or transportation is necessary to carry out the transportation policy of section 13101.

(e) LIMITATIONS.—

(1) IN GENERAL.—The exemption authority under this section may not be used to relieve a person from the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and damage, insurance, safety fitness, or activities approved under section 13703 or 14302 or not terminated under section 13907(d)(2).

(2) WATER CARRIERS.—The Secretary or Board, as applicable, may not exempt a water carrier from the application of, or compliance with, section 13701 or 13702 for transportation in the non-contiguous domestic trade.

(f) CONTINUATION OF CERTAIN EXISTING EXEMPTIONS FOR WATER CARRIERS.—The Secretary or Board, as applicable, shall not regulate or exercise jurisdiction under this part over the transportation by water carrier in the non-contiguous domestic trade of any cargo or type of cargo or service which was not subject to regulation by, or under the jurisdiction of, either the Federal Maritime Commission or Interstate Commerce Commission under Federal law in effect on November 1, 1995.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 866.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10505 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14303 of this title.

CHAPTER 137—RATES AND THROUGH ROUTES

Sec.

13701. Requirements for reasonable rates, classifications, through routes, rules, and practices for certain transportation.
13702. Tariff requirement for certain transportation.
13703. Certain collective activities; exemption from antitrust laws.
13704. Household goods rates—estimates; guarantees of service.
13705. Requirements for through routes among motor carriers of passengers.
13706. Liability for payment of rates.
13707. Payment of rates.
13708. Billing and collecting practices.
13709. Procedures for resolving claims involving unfiled, negotiated transportation rates.
13710. Additional billing and collecting practices.
13711. Alternative procedure for resolving undercharge disputes.
13712. Government traffic.
13713. Food and grocery transportation.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 10703, 10742 of this title.

§ 13701. Requirements for reasonable rates, classifications, through routes, rules, and practices for certain transportation

(a) REASONABLENESS.—

(1) CERTAIN HOUSEHOLD GOODS TRANSPORTATION; JOINT RATES INVOLVING WATER TRANSPORTATION.—A rate, classification, rule, or practice related to transportation or service provided by a carrier subject to jurisdiction under chapter 135 for transportation or service involving—

(A) a movement of household goods,

(B) a rate for a movement by or with a water carrier in noncontiguous domestic trade, or

(C) rates, rules, and classifications made collectively by motor carriers under agreements approved pursuant to section 13703,

must be reasonable.

(2) THROUGH ROUTES AND DIVISIONS OF JOINT RATES.—Through routes and divisions of joint rates for such transportation or service must be reasonable.

(b) PRESCRIPTION BY BOARD FOR VIOLATIONS.—When the Board finds it necessary to stop or prevent a violation of subsection (a), the Board shall prescribe the rate, classification, rule, practice, through route, or division of joint rates to be applied for such transportation or service.

(c) FILING OF COMPLAINT.—A complaint that a rate, classification, rule, or practice in noncontiguous domestic trade violates subsection (a) may be filed with the Board.

(d) ZONE OF REASONABLENESS.—

(1) IN GENERAL.—For purposes of this section, a rate or division of a motor carrier for service in noncontiguous domestic trade or water carrier for port-to-port service in that trade is reasonable if the aggregate of increases and decreases in any such rate or division is not more than 7.5 percent above, or more than 10 percent below, the rate or division in effect 1 year before the effective date of the proposed rate or division.

(2) ADJUSTMENTS TO THE ZONE.—The percentage specified in paragraph (1) shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor, that has occurred during the most recent 1-year period before the date the rate or division in question first took effect.

(3) DETERMINATIONS AFTER COMPLAINT.—The Board shall determine whether any rate or division of a carrier or service in noncontiguous domestic trade which is not within the range described in paragraph (1) is reasonable if a complaint is filed under subsection (c) or section 13702(b)(6).

(4) REPARATIONS.—Upon a finding of violation of subsection (a), the Board shall award reparations to the complaining shipper or shippers in an amount equal to all sums assessed and collected that exceed the determined reasonable rate, division, rate structure, or tariff. Upon complaint from any governmental agency or authority and upon a finding or violation of subsection (a), the Board shall make such orders as are just and shall require the carrier to return, to the extent practicable, to shippers all amounts plus interest, which the Board finds to have been assessed and collected in violation of subsection (a).

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 867.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10701, 10704, and 10705 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13541, 13702, 13710 of this title.

§ 13702. Tariff requirement for certain transportation

(a) IN GENERAL.—Except when providing transportation for charitable purposes without charge, a carrier subject to jurisdiction under chapter 135 may provide transportation or service that is—

(1) in noncontiguous domestic trade, except with regard to bulk cargo, forest products, re-

cycled metal scrap, waste paper, and paper waste; or

(2) for movement of household goods;

only if the rate for such transportation or service is contained in a tariff that is in effect under this section. The carrier may not charge or receive a different compensation for the transportation or service than the rate specified in the tariff, whether by returning a part of that rate to a person, giving a person a privilege, allowing the use of a facility that affects the value of that transportation or service, or another device. A rate contained in a tariff shall be stated in money of the United States.

(b) TARIFF REQUIREMENTS FOR NONCONTIGUOUS DOMESTIC TRADE.—

(1) FILING.—A carrier providing transportation or service described in subsection (a)(1) shall publish and file with the Board tariffs containing the rates established for such transportation or service. The carriers shall keep such tariffs available for public inspection. The Board shall prescribe the form and manner of publishing, filing, and keeping tariffs available for public inspection under this subsection.

(2) CONTENTS.—The Board may prescribe any specific information and charges to be identified in a tariff, but at a minimum tariffs must identify plainly—

(A) the carriers that are parties to it;

(B) the places between which property will be transported;

(C) terminal charges if a carrier provides transportation or service subject to jurisdiction under subchapter III of chapter 135;

(D) privileges given and facilities allowed; and

(E) any rules that change, affect, or determine any part of the published rate.

(3) INLAND DIVISIONS.—A carrier providing transportation or service described in subsection (a)(1) under a joint rate for a through movement shall not be required to state separately or otherwise reveal in tariff filings the inland divisions of that through rate.

(4) TIME-VOLUME RATES.—Rates in tariffs filed under this subsection may vary with the volume of cargo offered over a specified period of time.

(5) CHANGES.—The Board may permit carriers to change rates, classifications, rules, and practices without filing complete tariffs under this subsection that cover matter that is not being changed when the Board finds that action to be consistent with the public interest. Those carriers may either—

(A) publish new tariffs that incorporate changes, or

(B) plainly indicate the proposed changes in the tariffs then in effect and make the tariffs as changed available for public inspection.

(6) COMPLAINTS.—A complaint that a rate or related rule or practice maintained in a tariff under this subsection violates section 13701(a) may be submitted to the Board for resolution.

(c) TARIFF REQUIREMENTS FOR HOUSEHOLD GOODS CARRIERS.—

(1) IN GENERAL.—A carrier providing transportation described in subsection (a)(2) shall maintain rates and related rules and practices in a published tariff. The tariff must be available for inspection by the Board and be made available for inspection by shippers upon reasonable request.

(2) NOTICE OF AVAILABILITY.—A carrier that maintains a tariff under this subsection may not enforce the provisions of the tariff unless the carrier has given notice that the tariff is available for inspection in its bill of lading or by other actual notice to individuals whose shipments are subject to the tariff.

(3) REQUIREMENTS.—A carrier that maintains a tariff under this subsection is bound by the tariff except as otherwise provided in this part. A tariff that does not comply with this subsection may not be enforced against any individual shipper.

(4) INCORPORATION BY REFERENCE.—A carrier may incorporate by reference the rates, terms, and other conditions of a tariff in agreements covering the transportation of household goods.

(5) COMPLAINTS.—A complaint that a rate or related rule or practice maintained in a tariff under this subsection violates section 13701(a) may be submitted to the Board for resolution.

(d) INVALIDATION.—The Board may invalidate a tariff prepared by a carrier or carriers under this section if that tariff violates this section or a regulation of the Board carrying out this section.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 868.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10761 and 10762 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13541, 13701, 13711, 14704, 14706, 14709, 14901, 14902, 14903, 14904, 14913 of this title.

§ 13703. Certain collective activities; exemption from antitrust laws

(a) AGREEMENTS.—

(1) AUTHORITY TO ENTER.—A motor carrier providing transportation or service subject to jurisdiction under chapter 135 may enter into an agreement with one or more such carriers to establish—

(A) through routes and joint rates;

(B) rates for the transportation of household goods;

(C) classifications;

(D) mileage guides;

(E) rules;

(F) divisions;

(G) rate adjustments of general application based on industry average carrier costs (so long as there is no discussion of individual markets or particular single-line rates); or

(H) procedures for joint consideration, initiation, or establishment of matters described in subparagraphs (A) through (G).

(2) SUBMISSION OF AGREEMENT TO BOARD; APPROVAL.—An agreement entered into under paragraph (1) may be submitted by any carrier or carriers that are parties to such agreement to the Board for approval and may be approved by the Board only if it finds that such agreement is in the public interest.

(3) CONDITIONS.—The Board may require compliance with reasonable conditions consistent with this part to assure that the agreement furthers the transportation policy set forth in section 13101.

(4) INDEPENDENTLY ESTABLISHED RATES.—Any carrier which is a party to an agreement under paragraph (1) is not, and may not be, precluded from independently establishing its own rates, classification, and mileages or from adopting and using a noncollectively made classification or mileage guide.

(5) INVESTIGATIONS.—

(A) REASONABLENESS.—The Board may suspend and investigate the reasonableness of any rate, rule, classification, or rate adjustment of general application made pursuant to an agreement under this section.

(B) ACTIONS NOT IN THE PUBLIC INTEREST.—The Board may investigate any action taken pursuant to an agreement approved under this section. If the Board finds that the action is not in the public interest, the Board may take such measures as may be necessary to protect the public interest with regard to the action, including issuing an order directing the parties to cease and desist or modify the action.

(6) EFFECT OF APPROVAL.—If the Board approves the agreement or renews approval of the agreement, it may be made and carried out under its terms and under the conditions required by the Board, and the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to parties and other persons with respect to making or carrying out the agreement.

(b) RECORDS.—The Board may require an organization established or continued under an agreement approved under this section to maintain records and submit reports. The Board, or its delegate, may inspect a record maintained under this section, or monitor any organization's compliance with this section.

(c) REVIEW.—The Board may review an agreement approved under this section, on its own initiative or on request, and shall change the conditions of approval or terminate it when necessary to protect the public interest. Action of the Board under this section—

(1) approving an agreement,

(2) denying, ending, or changing approval,

(3) prescribing the conditions on which approval is granted, or

(4) changing those conditions,

has effect only as related to application of the antitrust laws referred to in subsection (a).

(d) EXPIRATION OF APPROVALS; RENEWALS.—Subject to subsection (c), approval of an agreement under subsection (a) shall expire 3 years after the date of approval unless renewed under this subsection. The approval may be renewed upon request of the parties to the agreement if such parties resubmit the agreement to the Board, the agreement is unchanged, and the Board approves such renewal. The Board shall approve the renewal unless it finds that the renewal is not in the public interest. Parties to the agreement may continue to undertake activities pursuant to the previously approved agreement while the renewal request is pending.

(e) EXISTING AGREEMENTS.—Agreements approved under former section 10706(b) and in effect on December 31, 1995, shall be treated for purposes of this section as approved by the Board under this section beginning on January 1, 1996.

(f) LIMITATIONS ON STATUTORY CONSTRUCTION.—

(1) UNDERCHARGE CLAIMS.—Nothing in this section shall serve as a basis for any undercharge claim.

(2) OBLIGATION OF SHIPPER.—Nothing in this title, the ICC Termination Act of 1995, or any amendments or repeals made by such Act shall be construed as creating any obligation for a shipper based solely on a classification that was on file with the Interstate Commerce Commission or elsewhere on December 31, 1995.

(g) INDUSTRY STANDARD GUIDES.—

(1) IN GENERAL.—

(A) PUBLIC AVAILABILITY.—Routes, rates, classifications, mileage guides, and rules established under agreements approved under this section shall be published and made available for public inspection upon request.

(B) PARTICIPATION OF CARRIERS.—

(i) IN GENERAL.—A motor carrier of property whose routes, rates, classifications, mileage guides, rules, or packaging are determined or governed by publications established under agreements approved under this section must participate in the determining or governing publication for such provisions to apply.

(ii) POWER OF ATTORNEY.—The motor carrier of property shall issue a power of attorney to the publishing agent and, upon its acceptance, the agent shall issue a written certification to the motor carrier affirming its participation in the governing publication, and the certification shall be made available for public inspection.

(2) MILEAGE LIMITATION.—No carrier subject to jurisdiction under subchapter I or III of chapter 135 may enforce collection of its mileage rates unless such carrier—

(A) is a participant in a publication of mileages formulated under an agreement approved under this section; or

(B) uses a publication of mileage (other than a publication described in subparagraph (A)) that can be examined by any interested person upon reasonable request.

(h) SINGLE LINE RATE DEFINED.—In this section, the term ''single line rate'' means a rate, charge, or allowance proposed by a single motor carrier that is applicable only over its line and for which the transportation can be provided by that carrier.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 869; amended Pub. L. 104–287, §5(28),

Oct. 11, 1996, 110 Stat. 3391; Pub. L. 105–102, § 2(9), Nov. 20, 1997, 111 Stat. 2204.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:13703(a)(2) to correct an erroneous cross-reference.

REFERENCES IN TEXT

Former section 10706(b), referred to in subsec. (e), probably means section 10706(b) of this title as in effect before that section was omitted and a new section 10706 enacted in the general amendment of this subtitle by Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 804, 812.

The ICC Termination Act of 1995, referred to in subsec. (f)(2), 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.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10706 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

AMENDMENTS

1997—Subsec. (a)(2). Pub. L. 105–102 substituted ''paragraph (1)'' for ''subsection (a)''.

1996—Subsec. (e). Pub. L. 104–287, § 5(28)(A), substituted ''December 31, 1995,'' for ''the day before the effective date of this section'' and ''January 1, 1996'' for ''such effective date''.

Subsec. (f)(2). Pub. L. 104–287, § 5(28)(B), substituted ''December 31, 1995'' for ''the day before the effective date of this section''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13541, 13701, 14706 of this title.

§ 13704. Household goods rates—estimates; guarantees of service

(a) IN GENERAL.—

(1) AUTHORITY.—Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 may establish a rate for the transportation of household goods which is based on the carrier's written, binding estimate of charges for providing such transportation.

(2) NONPREFERENTIAL; NONPREDATORY.—Any rate established under this subsection must be available on a nonpreferential basis to shippers and must not result in charges to shippers which are predatory.

(b) RATES FOR GUARANTEED SERVICE.—

(1) AUTHORITY.—Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 may establish rates for the transportation of household goods which guarantee that the carrier will pick up and deliver such household goods at the times specified in the contract for such services and provide a penalty or per diem payment in the event the carrier fails to pick up or deliver such household goods at the specified time. The charges, if any, for such guarantee and penalty provision may vary to reflect one or more options available to meet a particular shipper's needs.

(2) AUTHORITY OF SECRETARY TO REQUIRE NONGUARANTEED SERVICE RATES.—Before a carrier may establish a rate for any service under paragraph (1) of this subsection, the Secretary may require such carrier to have in effect and keep in effect, during any period such rate is in effect under paragraph (1), a rate for such service which does not guarantee the pick up and delivery of household goods at the times specified in the contract for such services and which does not provide a penalty or per diem payment in the event the carrier fails to pick up or deliver household goods at the specified time.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 872.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10735 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 13705. Requirements for through routes among motor carriers of passengers

(a) ESTABLISHMENT; REASONABLENESS.—A motor carrier providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135 shall establish through routes with other carriers of the same type and shall establish individual and joint rates applicable to them. Such through route must be reasonable.

(b) PRESCRIBED BY BOARD.—When the Board finds it necessary to enforce the requirements of this section, the Board may prescribe through routes and the conditions under which those routes must be operated for motor carriers providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 872.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10703 and 10705 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 13706. Liability for payment of rates

(a) LIABILITY OF CONSIGNEE.—Liability for payment of rates for transportation for a shipment of property by a shipper or consignor to a consignee other than the shipper or consignor, is determined under this section when the transportation is provided by motor carrier under this part. When the shipper or consignor instructs the carrier transporting the property to deliver it to a consignee that is an agent only, not having beneficial title to the property, the consignee is liable for rates billed at the time of delivery for which the consignee is otherwise liable, but not for additional rates that may be found to be due after delivery if the consignee gives written notice to the delivering carrier before delivery of the property—

(1) of the agency and absence of beneficial title; and

(2) of the name and address of the beneficial owner of the property if it is reconsigned or diverted to a place other than the place specified in the original bill of lading.

(b) LIABILITY OF BENEFICIAL OWNER.—When the consignee is liable only for rates billed at the time of delivery under subsection (a), the shipper or consignor, or, if the property is reconsigned or diverted, the beneficial owner is liable for those additional rates regardless of the bill of the lading or contract under which the property was transported. The beneficial owner is liable for all rates when the property is reconsigned or diverted by an agent but is refused or abandoned at its ultimate destination if the agent gave the carrier in the reconsignment or diversion order a notice of agency and the name and address of the beneficial owner. A consignee giving the carrier erroneous information about the identity of the beneficial owner of the property is liable for the additional rates.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 872.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10744 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 13707. Payment of rates

(a) TRANSFER OF POSSESSION UPON PAYMENT.—Except as provided in subsection (b), a carrier providing transportation or service subject to jurisdiction under this part shall give up possession at the destination of the property transported by it only when payment for the transportation or service is made.

(b) EXCEPTIONS.—

(1) REGULATIONS.—Under regulations of the Secretary governing the payment for transportation and service and preventing discrimination, those carriers may give up possession at destination of property transported by them before payment for the transportation or service. The regulations of the Secretary may provide for weekly or monthly payment for transportation provided by motor carriers and for periodic payment for transportation provided by water carriers.

(2) EXTENSIONS OF CREDIT TO GOVERNMENTAL ENTITIES.—Such a carrier (including a motor carrier being used by a household goods freight forwarder) may extend credit for transporting property for the United States Government, a State, a territory or possession of the United States, or a political subdivision of any of them.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 873.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10743 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 13708. Billing and collecting practices

(a) DISCLOSURE.—A motor carrier subject to jurisdiction under subchapter I of chapter 135 shall disclose, when a document is presented or electronically transmitted for payment to the person responsible directly to the motor carrier for payment or agent of such responsible person, the actual rates, charges, or allowances for any transportation service and shall also disclose, at such time, whether and to whom any allowance or reduction in charges is made.

(b) FALSE OR MISLEADING INFORMATION.—No person may cause a motor carrier to present false or misleading information on a document about the actual rate, charge, or allowance to any party to the transaction.

(c) ALLOWANCES FOR SERVICES.—When the actual rate, charge, or allowance is dependent upon the performance of a service by a party to the transportation arrangement, such as tendering a volume of freight over a stated period of time, the motor carrier shall indicate in any document presented for payment to the person responsible directly to the motor carrier that a reduction, allowance, or other adjustment may apply.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 873.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10767 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 13709. Procedures for resolving claims involving unfiled, negotiated transportation rates

(a) TRANSPORTATION PROVIDED AT RATES OTHER THAN LEGAL TARIFF RATES.—

(1) IN GENERAL.—When a claim is made by a motor carrier of property (other than a household goods carrier) providing transportation subject to jurisdiction under subchapter II of chapter 105 (as in effect on December 31, 1995) or subchapter I of chapter 135, by a freight forwarder (other than a household goods freight forwarder), or by a party representing such a carrier or freight forwarder regarding the collection of rates or charges for such transportation in addition to those originally billed and collected by the carrier or freight forwarder for such transportation, the person against whom the claim is made may elect to satisfy the claim under the provisions of subsection (b), (c), or (d), upon showing that—

(A) the carrier or freight forwarder is no longer transporting property or is transporting property for the purpose of avoiding the application of this section; and

(B) with respect to the claim—

(i) the person was offered a transportation rate by the carrier or freight forwarder other than that legally on file at the time with the Board or with the Interstate Commerce Commission, as required, for the transportation service;

(ii) the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

(iii) the carrier or freight forwarder did not properly or timely file with the Board or with the Interstate Commerce Commission, as required, a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

(iv) such transportation rate was billed and collected by the carrier or freight forwarder; and

(v) the carrier or freight forwarder demands additional payment of a higher rate filed in a tariff.

(2) FORUM.—If there is a dispute as to the showing under paragraph (1)(A), such dispute shall be resolved by the court in which the claim is brought. If there is a dispute as to the showing under paragraph (1)(B), such dispute shall be resolved by the Board. Pending the resolution of any such dispute, the person shall not have to pay any additional compensation to the carrier or freight forwarder.

(3) EFFECT OF SATISFACTION OF CLAIMS.—Satisfaction of the claim under subsection (b), (c), or (d) shall be binding on the parties, and the parties shall not be subject to chapter 119 of this title, as such chapter was in effect on December 31, 1995, or chapter 149.

(b) CLAIMS INVOLVING SHIPMENTS WEIGHING 10,000 POUNDS OR LESS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed 10,000 pounds or less, by payment of 20 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Board.

(c) CLAIMS INVOLVING SHIPMENTS WEIGHING MORE THAN 10,000 POUNDS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed more than 10,000 pounds, by payment of 15 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Board.

(d) CLAIMS INVOLVING PUBLIC WAREHOUSEMEN.—Notwithstanding subsections (b) and (c), a person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim by payment of 5 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid if such person is a public warehouseman. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Board.

(e) EFFECTS OF ELECTION.—When a person from whom additional legally applicable freight rates or charges are sought does not elect to use the provisions of subsection (b), (c) or (d), the person may pursue all rights and remedies existing under this part or, for transportation provided before January 1, 1996, all rights and remedies that existed under this title on December 31, 1995.

(f) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the legally applicable freight rate or charges being claimed by a carrier or freight forwarder in addition to those already billed and collected, the person shall not have to pay any additional compensation to the carrier or freight forwarder until the Board has made a determination as to the reasonableness of the challenged rate as applied to the freight of the person against whom the claim is made.

(g) NOTIFICATION OF ELECTION.—

(1) GENERAL RULE.—A person must notify the carrier or freight forwarder as to its election to proceed under subsection (b), (c), or (d). Except as provided in paragraphs (2), (3), and (4), such election may be made at any time.

(2) DEMANDS FOR PAYMENT INITIALLY MADE AFTER DECEMBER 3, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder initially demands the payment of additional freight charges after December 3, 1993, and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f) at the time of the making of such initial demand, the election must be made not later than the later of—

(A) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

(B) March 5, 1994.

(3) PENDING SUITS FOR COLLECTION MADE BEFORE DECEMBER 4, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has filed, before December 4, 1993, a suit for the collection of additional freight charges and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f), the election must be made not later than the 90th day following the date on which such notification is received.

(4) DEMANDS FOR PAYMENT MADE BEFORE DECEMBER 4, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has demanded the payment of additional freight charges, and has not filed a suit for the collection of such additional freight charges, before December 4, 1993, and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f), the election must be made not later than the later of—

(A) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

(B) March 5, 1994.

(h) CLAIMS INVOLVING SMALL-BUSINESS CONCERNS, CHARITABLE ORGANIZATIONS, AND RECYCLABLE MATERIALS.—

(1) IN GENERAL.—Notwithstanding subsections (b), (c), and (d), a person from whom the additional legally applicable and effective tariff rate or charges are sought shall not be liable for the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid—

(A) if such person qualifies as a small-business concern under the Small Business Act (15 U.S.C. 631 et seq.),

(B) if such person is an organization which is described in section 501(c)(3) of the Inter-

nal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, or

(C) if the cargo involved in the claim is recyclable materials.

(2) RECYCLABLE MATERIALS DEFINED.—In this subsection, the term ''recyclable materials'' means waste products for recycling or reuse in the furtherance of recognized pollution control programs.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 874; amended Pub. L. 104–287, § 5(29), Oct. 11, 1996, 110 Stat. 3391.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287, § 5(29)(A)

This amends 49:13709(a)(1) and (3) for clarity and consistency.

PUB. L. 104–287, § 5(29)(B)

This amends 49:13709(e) by setting out the effective date for 49:13709 and for clarity and consistency.

REFERENCES IN TEXT

Subchapter II of chapter 105, referred to in subsec. (a)(1), was omitted in the general amendment of this subtitle by Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

Chapter 119, referred to in subsec. (a)(3), was omitted and a new chapter 119 enacted in the general amendment of this subtitle by Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 804, 849, effective Jan. 1, 1996.

The Small Business Act, referred to in subsec. (h)(1)(A), is Pub. L. 85–536, July 18, 1958, 72 Stat. 384, as amended, which is classified generally to chapter 14A (§ 631 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 631 of Title 15 and Tables.

Section 501 of the Internal Revenue Code of 1986, referred to in subsec. (h)(1)(B), is classified to section 501 of Title 26, Internal Revenue Code.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10701 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

AMENDMENTS

1996—Subsec. (a)(1), (3). Pub. L. 104–287, § 5(29)(A), substituted ''December 31, 1995'' for ''the day before the effective date of this section''.

Subsec. (e). Pub. L. 104–287, § 5(29)(B), substituted ''January 1, 1996'' for ''the effective date of this section'' and ''December 31, 1995'' for ''the day before such effective date''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13711 of this title.

§ 13710. Additional billing and collecting practices

(a) MISCELLANEOUS PROVISIONS.—

(1) INFORMATION RELATING TO BASIS OF RATE.—A motor carrier of property (other than a motor carrier providing transportation in noncontiguous domestic trade) shall provide to the shipper, on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices, upon which any rate applicable to its shipment or agreed to between the shipper and carrier is based.

(2) REASONABLENESS OF RATES; COLLECTING ADDITIONAL CHARGES.—When the applicability or reasonableness of the rates and related provisions billed by a motor carrier is challenged by the person paying the freight charges, the Board shall determine whether such rates and provisions are reasonable under section 13701 or applicable based on the record before it.

(3) BILLING DISPUTES.—

(A) INITIATED BY MOTOR CARRIERS.—In those cases where a motor carrier (other than a motor carrier providing transportation of household goods or in noncontiguous domestic trade) seeks to collect charges in addition to those billed and collected which are contested by the payor, the carrier may request that the Board determine whether any additional charges over those billed and collected must be paid. A carrier must issue any bill for charges in addition to those originally billed within 180 days of the receipt of the original bill in order to have the right to collect such charges.

(B) INITIATED BY SHIPPERS.—If a shipper seeks to contest the charges originally billed or additional charges subsequently billed, the shipper may request that the Board determine whether the charges billed must be paid. A shipper must contest the original bill or subsequent bill within 180 days of receipt of the bill in order to have the right to contest such charges.

(4) VOIDING OF CERTAIN TARIFFS.—Any tariff on file with the Interstate Commerce Commission on August 26, 1994, and not required to be filed after that date is null and void beginning on that date. Any tariff on file with the Interstate Commerce Commission on January 1, 1996, and not required to be filed after that date is null and void beginning on that date.

(b) RESOLUTION OF DISPUTES OVER STATUS OF COMMON CARRIER OR CONTRACT CARRIER.—If a motor carrier (other than a motor carrier providing transportation of household goods) that was subject to jurisdiction under subchapter II of chapter 105, as in effect on December 31, 1995, and that had authority to provide transportation as both a motor common carrier and a motor contract carrier and a dispute arises as to whether certain transportation that was provided prior to January 1, 1996, was provided in its common carrier or contract carrier capacity and the parties are not able to resolve the dispute consensually, the Board shall resolve the dispute.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 876; amended Pub. L. 104–287, § 5(30), Oct. 11, 1996, 110 Stat. 3391.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287, § 5(30)(A)

This sets out the effective date of 49:13710.

PUB. L. 104–287, § 5(30)(B)

This amends 49:13710(b) by setting out the effective date for 49:13710 and for clarity and consistency.

REFERENCES IN TEXT

Subchapter II of chapter 105, referred to in subsec. (b), was omitted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10762 and 11101 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

1996—Subsec. (a)(4). Pub. L. 104–287, §5(30)(A), substituted ''January 1, 1996,'' for ''the effective date of this section''.

Subsec. (b). Pub. L. 104–287, §5(30)(B), substituted ''December 31, 1995'' for ''the day before the effective date of this section'' and ''January 1, 1996,'' for ''the effective date of this section''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14706 of this title.

§ 13711. Alternative procedure for resolving undercharge disputes

(a) GENERAL RULE.—It shall be an unreasonable practice for a motor carrier of property (other than a household goods carrier) providing transportation subject to jurisdiction under subchapter I of chapter 135 or, before January 1, 1996, to have provided transportation that was subject to jurisdiction under subchapter II of chapter 105, as in effect on December 31, 1995, a freight forwarder (other than a household goods freight forwarder), or a party representing such a carrier or freight forwarder to attempt to charge or to charge for a transportation service the difference between (1) the applicable rate that was lawfully in effect pursuant to a tariff that was filed in accordance with this chapter or, with respect to transportation provided before January 1, 1996, in accordance with chapter 107, as in effect on the date the transportation was provided, by the carrier or freight forwarder applicable to such transportation service, and (2) the negotiated rate for such transportation service if the carrier or freight forwarder is no longer transporting property between places described in section 13501(1) or is transporting property between places described in section 13501(1) for the purpose of avoiding application of this section.

(b) JURISDICTION OF BOARD.—

(1) DETERMINATION.—The Board shall have jurisdiction to make a determination of whether or not attempting to charge or the charging of a rate by a motor carrier or freight forwarder or party representing a motor carrier or freight forwarder is an unreasonable practice under subsection (a). If the Board determines that attempting to charge or the charging of the rate is an unreasonable practice under subsection (a), the carrier, freight forwarder, or party may not collect the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service.

(2) FACTORS TO CONSIDER.—In making a determination under paragraph (1), the Board shall consider—

(A) whether the person was offered a transportation rate by the carrier or freight forwarder or party other than that legally on file with the Interstate Commerce Commission or the Board, as required, at the time of the movement for the transportation service;

(B) whether the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

(C) whether the carrier or freight forwarder did not properly or timely file with the Interstate Commerce Commission or the Board, as required, a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

(D) whether the transportation rate was billed and collected by the carrier or freight forwarder; and

(E) whether the carrier or freight forwarder or party demands additional payment of a higher rate filed in a tariff.

(c) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the practice of a motor carrier, freight forwarder, or party described in subsection (a) to attempt to charge or to charge the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service in addition to those charges already billed and collected for the transportation service, the person shall not have to pay any additional compensation to the carrier, freight forwarder, or party until the Board has made a determination as to the reasonableness of the practice as applied to the freight of the person against whom the claim is made.

(d) TREATMENT.—Subsection (a) is an exception to the requirements of section 13702 and, for transportation provided before January 1, 1996, to the requirements of sections 10761(a) and 10762, as in effect on December 31, 1995, as such sections relate to a filed tariff rate and other general tariff requirements.

(e) NONAPPLICABILITY OF NEGOTIATED RATE DISPUTE RESOLUTION PROCEDURE.—If a person elects to seek enforcement of subsection (a) with respect to a rate for a transportation or service, section 13709 shall not apply to such rate.

(f) DEFINITIONS.—In this section, the term ''negotiated rate'' means a rate, charge, classification, or rule agreed upon by a motor carrier or freight forwarder and a shipper through negotiations pursuant to which no tariff was lawfully and timely filed and for which there is written evidence of such agreement.

(g) APPLICABILITY TO PENDING CASES.—This section shall apply to all cases and proceedings pending on January 1, 1996.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 877; amended Pub. L. 104–287, §5(31), Oct. 11, 1996, 110 Stat. 3391.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287

This amends 49:13711(a), (d), and (g) by setting out the effective date of 49:13711 and for clarity and consistency.

REFERENCES IN TEXT

Subchapter II of chapter 105, referred to in subsec. (a), was omitted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

Chapter 107, as in effect on the date transportation was provided, referred to in subsec. (a), means chapter 107 of this title, as in effect on the date transportation was provided with respect to transportation provided before Jan. 1, 1996. Chapter 107 (§10701 et seq.) was omitted and a new chapter 107 enacted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, 809, effective Jan. 1, 1996.

Sections 10761(a) and 10762, referred to in subsec. (d), were omitted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2(e) of Pub. L. 103–180, set out as a note under former section 10701 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–287, §5(31)(A), substituted ''or, before January 1, 1996'' for ''or, before the effective date of this section'', ''December 31, 1995'' for ''the day before the effective date of this section'', and ''provided before January 1, 1996'' for ''provided before the effective date of this section''.

Subsec. (d). Pub. L. 104–287, §5(31)(B), substituted ''January 1, 1996'' for ''the effective date of this section'' and ''December 31, 1995'' for ''the day before such effective date''.

Subsec. (g). Pub. L. 104–287, §5(31)(C), substituted ''January 1, 1996'' for ''the effective date of this section''.

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.

§ 13712. Government traffic

A carrier providing transportation or service for the United States Government may transport property or individuals for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply when transportation for the United States Government can be obtained from a carrier lawfully operating in the area where the transportation would be provided.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 879.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10721 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 section 3726.

§ 13713. Food and grocery transportation

(a) CERTAIN COMPENSATION PROHIBITED.—Notwithstanding any other provision of law, it shall not be unlawful for a seller of food and grocery products using a uniform zone delivered pricing system to compensate a customer who picks up purchased food and grocery products at the shipping point of the seller if such compensation is available to all customers of the seller on a nondiscriminatory basis and does not exceed the actual cost to the seller of delivery to such customer.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that any savings accruing to a customer by reason of compensation permitted by subsection (a) of this section should be passed on to the ultimate consumer.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 879.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10732 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

CHAPTER 139—REGISTRATION

Sec.
13901. Requirement for registration.
13902. Registration of motor carriers.
13903. Registration of freight forwarders.
13904. Registration of brokers.
13905. Effective periods of registration.
13906. Security of motor carriers, brokers, and freight forwarders.
13907. Household goods agents.
13908. Registration and other reforms.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 14504, 14701 of this title; title 15 section 5904.

§ 13901. Requirement for registration

A person may provide transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or be a broker for transportation subject to jurisdiction under subchapter I of that chapter, only if the person is registered under this chapter to provide the transportation or service.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 879.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10921 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14707, 14901 of this title.

§ 13902. Registration of motor carriers

(a) MOTOR CARRIER GENERALLY.—

(1) IN GENERAL.—Except as provided in this section, the Secretary shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 of this title as a motor carrier if the Secretary finds that the person is willing and able to comply with—

(A) this part and the applicable regulations of the Secretary and the Board;

(B) any safety regulations imposed by the Secretary and the safety fitness requirements established by the Secretary under section 31144; and

(C) the minimum financial responsibility requirements established by the Secretary pursuant to sections 13906 and 31138.

(2) CONSIDERATION OF EVIDENCE; FINDINGS.—The Secretary shall consider and, to the extent applicable, make findings on, any evidence demonstrating that the registrant is unable to comply with the requirements of subparagraph (A), (B), or (C) of paragraph (1).

(3) WITHHOLDING.—If the Secretary determines that any registrant under this section does not meet the requirements of paragraph (1), the Secretary shall withhold registration.

(4) LIMITATION ON COMPLAINTS.—The Secretary may hear a complaint from any person concerning a registration under this subsection only on the ground that the registrant fails or will fail to comply with this part, the applicable regulations of the Secretary and the Board, the safety regulations of the Secretary, or the safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection.

(b) MOTOR CARRIERS OF PASSENGERS.—

(1) REGISTRATION OF PRIVATE RECIPIENTS OF GOVERNMENTAL ASSISTANCE.—The Secretary shall register under subsection (a)(1) a private recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

(2) REGISTRATION OF PUBLIC RECIPIENTS OF GOVERNMENTAL ASSISTANCE.—

(A) CHARTER TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that—

(i) the recipient meets the requirements of subsection (a)(1); and

(ii)(I) no motor carrier of passengers (other than a motor carrier of passengers which is a public recipient of governmental assistance) is providing, or is willing to provide, the transportation; or

(II) the transportation is to be provided entirely in the area in which the public recipient provides regularly scheduled mass transportation services.

(B) REGULAR-ROUTE TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide regular-route transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

(C) TREATMENT OF CERTAIN PUBLIC RECIPIENTS.—Any public recipient of governmental assistance which is providing or seeking to provide transportation of passengers subject to jurisdiction under subchapter I of chapter 135 shall, for purposes of this part, be treated as a person which is providing or seeking to provide transportation of passengers subject to such jurisdiction.

(3) INTRASTATE TRANSPORTATION BY INTERSTATE CARRIERS.—A motor carrier of passengers that is registered by the Secretary under subsection (a) is authorized to provide regular-route transportation entirely in one State as a motor carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier provides interstate transportation of passengers.

(4) PREEMPTION OF STATE REGULATION REGARDING CERTAIN SERVICE.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to the provision of pickup and delivery of express packages, newspapers, or mail in a commercial zone if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce and, if a city within the commercial zone, is served by a motor carrier of passengers providing regular-route transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

(5) JURISDICTION OVER CERTAIN INTRASTATE TRANSPORTATION.—Subject to section 14501(a), any intrastate transportation authorized by this subsection shall be treated as transportation subject to jurisdiction under subchapter I of chapter 135 until such time as the carrier takes such action as is necessary to establish under the laws of such State rates, rules, and practices applicable to such transportation, but in no case later than the 30th day following the date on which the motor carrier of passengers first begins providing transportation entirely in one State under this paragraph.

(6) SPECIAL OPERATIONS.—This subsection shall not apply to any regular-route transportation of passengers provided entirely in one State which is in the nature of a special operation.

(7) SUSPENSION OR REVOCATION.—Intrastate transportation authorized under this subsection may be suspended or revoked by the Secretary under section 13905 of this title at any time.

(8) DEFINITIONS.—In this subsection, the following definitions apply:

(A) PUBLIC RECIPIENT OF GOVERNMENTAL ASSISTANCE.—The term ''public recipient of governmental assistance'' means—

(i) any State,

(ii) any municipality or other political subdivision of a State,

(iii) any public agency or instrumentality of one or more States and municipalities and political subdivisions of a State,

(iv) any Indian tribe, and

(v) any corporation, board, or other person owned or controlled by any entity described in clause (i), (ii), (iii), or (iv),

which before, on, or after January 1, 1996, received governmental assistance for the purchase or operation of any bus.

(B) PRIVATE RECIPIENT OF GOVERNMENT ASSISTANCE.—The term ''private recipient of government assistance'' means any person (other than a person described in subparagraph (A)) who before, on, or after January 1, 1996, received governmental financial assistance in the form of a subsidy for the purchase, lease, or operation of any bus.

(c) RESTRICTIONS ON MOTOR CARRIERS DOMICILED IN OR OWNED OR CONTROLLED BY NATIONALS OF A CONTIGUOUS FOREIGN COUNTRY.—

(1) PREVENTION OF DISCRIMINATORY PRACTICES.—If the President, or the delegate thereof, determines that an act, policy, or practice of a foreign country contiguous to the United States, or any political subdivision or any instrumentality of any such country is unreasonable or discriminatory and burdens or restricts United States transportation companies providing, or seeking to provide, motor carrier transportation to, from, or within such foreign country, the President or such delegate may—

(A) seek elimination of such practices through consultations; or

(B) notwithstanding any other provision of law, suspend, modify, amend, condition, or restrict operations, including geographical restriction of operations, in the United States by motor carriers of property or passengers domiciled in such foreign country or owned or controlled by persons of such foreign country.

(2) EQUALIZATION OF TREATMENT.—Any action taken under paragraph (1)(A) to eliminate an act, policy, or practice shall be so devised so as to equal to the extent possible the burdens or restrictions imposed by such foreign country on United States transportation companies.

(3) REMOVAL OR MODIFICATION.—The President, or the delegate thereof, may remove or modify in whole or in part any action taken under paragraph (1)(A) if the President or such delegate determines that such removal or modification is consistent with the obligations of the United States under a trade agreement or with United States transportation policy.

(4) PROTECTION OF EXISTING OPERATIONS.—Unless and until the President, or the delegate thereof, makes a determination under paragraph (1) or (3), nothing in this subsection shall affect—

(A) operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country permitted in the commercial zones along the United States-Mexico border as such zones were defined on December 31, 1995; or

(B) any existing restrictions on operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country or any modifications thereof pursuant to section 6 of the Bus Regulatory Reform Act of 1982.

(5) PUBLICATION; COMMENT.—Unless the President, or the delegate thereof, determines that expeditious action is required, the President shall publish in the Federal Register any determination under paragraph (1) or (3), together with a description of the facts on which such a determination is based and any proposed action to be taken pursuant to paragraph (1)(B) or (3), and provide an opportunity for public comment.

(6) DELEGATION TO SECRETARY.—The President may delegate any or all authority under this subsection to the Secretary, who shall consult with other agencies as appropriate. In accordance with the directions of the President, the Secretary may issue regulations to enforce this subsection.

(7) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

(8) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection shall not be construed as affecting the requirement for all foreign motor carriers and foreign motor private carriers operating in the United States to comply with all applicable laws and regulations pertaining to fitness, safety of operations, financial responsibility, and taxes imposed by section 4481 of the Internal Revenue Code of 1986.

(d) TRANSITION RULE.—

(1) IN GENERAL.—Pending the implementation of the rulemaking required by section 13908, the Secretary may register a person under this section—

(A) as a motor common carrier if such person would have been issued a certificate to provide transportation as a motor common carrier under this subtitle on December 31, 1995; and

(B) as a motor contract carrier if such person would have been issued a permit to provide transportation as a motor contract carrier under this subtitle on such day.

(2) DEFINITIONS.—In this subsection, the terms ''motor common carrier'' and ''motor contract carrier'' have the meaning such terms had under section 10102 as such section was in effect on December 31, 1995.

(e) MOTOR CARRIER DEFINED.—In this section and sections 13905 and 13906, the term ''motor carrier'' includes foreign motor private carriers.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 880; amended Pub. L. 104–287, §5(32), Oct. 11, 1996, 110 Stat. 3391.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287, § 5(32)(A)

This amends 49:13902(b)(8)(A) to correct a grammatical error and to set out the effective date of 49:13902(b).

PUB. L. 104–287, § 5(32)(B)

This sets out the effective date of 49:13902(b)(8).

PUB. L. 104–287, § 5(32)(C)

This amends 49:13902(c)(4)(A) and (d)(1) and (2) for clarity and consistency.

REFERENCES IN TEXT

Section 6 of the Bus Regulatory Reform Act of 1982, referred to in subsec. (c)(4)(B), is section 6 of Pub. L. 97–261, Sept. 20, 1982, 96 Stat. 1103, which amended former sections 10102, 10322, 10521, 10922, and 11711 of this title, section 250 of Title 26, Internal Revenue Code, and section 5201 of Title 39, Postal Service.

Section 4481 of the Internal Revenue Code of 1986, referred to in subsec. (c)(8), is classified to section 4481 of Title 26, Internal Revenue Code.

Section 10102, referred to in subsec. (d)(2), was omitted and a new section 10102 enacted in the general amendment of this subtitle by Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 804, 806, effective Jan. 1, 1996.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10922 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

AMENDMENTS

1996—Subsec. (b)(8)(A). Pub. L. 104–287, § 5(32)(A), inserted ''and'' after ''any Indian tribe,'' in cl. (iv), struck out ''and'' after ''clause (i), (ii), (iii), or (iv),'' in cl. (v), and substituted ''January 1, 1996,'' for ''the effective date of this subsection'' in concluding provisions.

Subsec. (b)(8)(B). Pub. L. 104–287, § 5(32)(B), substituted ''January 1, 1996,'' for ''the effective date of this paragraph''.

Subsecs. (c)(4)(A), (d)(1)(A), (2). Pub. L. 104–287, § 5(32)(C), substituted ''December 31, 1995'' for ''the day before the effective date of this section''.

LIMITED MODIFICATION TO MORATORIUM ON ISSUANCE OF CERTIFICATES OR PERMITS WITH RESPECT TO MEXICO

Memorandum of President of the United States, May 6, 1993, 58 F.R. 27647, provided:

Memorandum for the Secretary of Transportation

Section 6 of the Bus Regulatory Reform Act of 1982 [Pub. L. 97–261, see former 49 U.S.C. 10922(m)(1), (2)] imposed a moratorium on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by persons of, a contiguous foreign country. The Act [Pub. L. 97–261, see Tables for classification] authorized the President to remove the moratorium in whole or in part for any country or political subdivision thereof upon determining that such action is in the national interest. Sixty days' advance notice to the Congress is required whenever the removal or modification applies to a contiguous foreign country or political subdivision thereof that substantially prohibits the granting of motor carrier authority to persons from the United States.

I am pleased that an agreement between the United States and Mexico has been concluded to ensure fair and reciprocal treatment for charter and tour bus interests on both sides of the border. The agreement reached, however, does not allow for full access to cross-border and domestic markets. Therefore, the moratorium must reflect the conditions under which operating authority may be issued to Mexican charter and tour companies under the agreement.

Pursuant to section 6 of the Bus Regulatory Reform Act of 1982, 49 U.S.C. section 10922(*l*)(2)(A) [see former 49 U.S.C. 10922(m)(2)(A)], I hereby make a limited modification to the moratorium imposed by that section and all actions taken by my predecessors under that section on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by persons of, a contiguous foreign country.

The moratorium is modified only to authorize the Interstate Commerce Commission to grant Mexican motor carriers authority to transport passengers in charter or special operations, in foreign commerce, in round trip or one-way service between Mexico and the United States pursuant to the following restrictions:

1. The Mexican motor carrier can conduct cross-border charter or special service in the United States only when the international tour or charter begins in Mexico;

2. Tickets or tour packages for such operations cannot be sold in the United States; and

3. The terms of the grants of authority given to Mexican motor carriers will be limited by the life of the agreement with Mexico covering reciprocal cross-border charter and special operations.

This action applies only to international charter and tour operations, does not allow for point-to-point service within the United States, and does not authorize companies to conduct cross-border regular route service. This action preserves the status quo with respect to Mexican trucking companies and Mexican companies engaged in regular route service, and will maintain the moratorium on those operations through September 25, 1994, unless earlier revoked or modified.

Accordingly, you are directed to notify the Congress today on my behalf that, effective 60 days hence, the moratorium will no longer be in effect for Mexican charter and tour bus companies subject to the above stated conditions. Because of this action, the Interstate Commerce Commission will then accept and process expeditiously all applications for operating authority from Mexican owned, controlled, or domiciled charter and tour bus firms. I should note that applications in Mexico by United States charter and tour bus firms will be similarly treated.

You are hereby authorized and directed to publish this determination in the Federal Register.

WILLIAM J. CLINTON.

Memorandum of President of the United States, Jan. 1, 1994, 59 F.R. 653, provided:

Memorandum for the Secretary of Transportation

Section 6 of the Bus Regulatory Reform Act of 1982 [Pub. L. 97–261, see former 49 U.S.C. 10922(m)(1), (2)] imposed a moratorium on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by, persons of a contiguous foreign country. The Act [Pub. L. 97–261, see Tables for classification] authorized the President to remove the moratorium in whole or in part for any country or political subdivision thereof upon determining that such action is in the national interest. Sixty days' advance notice to the Congress is required whenever the removal or modification applies to a foreign contiguous country or political subdivision thereof that substantially prohibits the granting of motor carrier authority to persons from the United States.

As set forth in the Statement of Administrative Action regarding the North American Free Trade Agreement (NAFTA) that I submitted to the Congress on November 3, 1993, the moratorium with respect to Mexico will be lifted in phases to coincide with the schedule of liberalization in the relevant provisions of the NAFTA. The NAFTA specifically states that the moratorium will not apply to the provision of cross-border charter or tour bus services as of the date of entry into force of the Agreement.

This is to give public notice that, pursuant to section 6 of the Bus Regulatory Reform Act of 1982, 49 U.S.C. section 10922(*l*)(2)(A) [see former 49 U.S.C. 10922(m)(2)(A)], on November 3, 1993, I gave the Congress notice of my intention to make a limited modification to the moratorium imposed by that section

and all actions taken by my predecessors under that section on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by, persons of Mexico. This modification will take effect on January 1, 1994, the 60th day after my notice to the Congress.

The moratorium is modified only to authorize the Interstate Commerce Commission to grant Mexican motor carriers authority to transport passengers in charter or tour bus operations, in foreign commerce, in round-trip or one-way service between Mexico and the United States.

This action applies only to international charter or tour bus operations, does not allow for point-to-point bus service within the United States, and does not authorize companies to conduct cross-border regular route bus service.

Effective January 1, 1994, the Interstate Commerce Commission will begin to accept and process expeditiously all applications for operating authority from Mexican owned, controlled, or domiciled charter and tour bus firms.

This determination shall be published in the Federal Register.

WILLIAM J. CLINTON.

[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.]

EXTENSION OF MORATORIUM

Memorandum of President of the United States, Mar. 2, 1995, 60 F.R. 12393, provided:

Memorandum for the Secretary of Transportation [and] the United States Trade Representative

Pursuant to section 6 of the Bus Regulatory Reform Act of 1982, 49 U.S.C. 10922(*l*)(1) and (2) [Pub. L. 97–261, see former 49 U.S.C. 10922(m)(1), (2)], I hereby extend for an additional 2 years both the moratorium imposed by that section and all actions taken by my predecessors under that section on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by persons of, a contiguous foreign country. This action preserves the *status quo* and will maintain the moratorium through September 19, 1996, unless earlier revoked or modified.

This memorandum shall be published in the Federal Register.

WILLIAM J. CLINTON.

Memorandum of President of the United States, Sept. 25, 1992, 57 F.R. 44647, extended maratorium through Sept. 19, 1994.

Memorandum of President of the United States, Sept. 17, 1990, 55 F.R. 38657, extended moratorium through Sept. 19, 1992.

Memorandum of President of the United States, Sept. 15, 1988, 53 F.R. 36430, extended moratorium through Sept. 19, 1990.

Memorandum of President of the United States, Sept. 23, 1986, 51 F.R. 34079, extended moratorium through Sept. 19, 1988.

Memorandum of President of the United States, Aug. 30, 1984, 49 F.R. 35001, extended moratorium through Sept. 19, 1986.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13507, 13905, 13906, 14301, 14701, 14702, 14707, 14708, 14901, 14910, 24305, 31144 of this title.

§ 13903. Registration of freight forwarders

(a) IN GENERAL.—The Secretary shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder if the Secretary finds that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and the Board.

(b) REGISTRATION AS CARRIER REQUIRED.—The freight forwarder may provide transportation as the carrier itself only if the freight forwarder also has registered to provide transportation as a carrier under this chapter.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 884.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10923 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13905, 13906, 14707, 14708 of this title.

§ 13904. Registration of brokers

(a) IN GENERAL.—The Secretary shall register, subject to section 13906(b), a person to be a broker for transportation of property subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that the person is fit, willing, and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary.

(b) REGISTRATION AS CARRIER REQUIRED.—

(1) IN GENERAL.—The broker may provide the transportation itself only if the broker also has been registered to provide the transportation as a motor carrier under this chapter.

(2) LIMITATION.—This subsection does not apply to a motor carrier registered under this chapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier, with other registered motor carriers, or with rail or water carriers.

(c) REGULATIONS TO PROTECT SHIPPERS.—Regulations of the Secretary applicable to brokers registered under this section shall provide for the protection of shippers by motor vehicle.

(d) BOND AND INSURANCE.—The Secretary may impose on brokers for motor carriers of passengers such requirements for bonds or insurance or both as the Secretary determines are needed to protect passengers and carriers dealing with such brokers.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 884.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10924 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13506, 13905, 13906, 14707 of this title.

§ 13905. Effective periods of registration

(a) PERSON HOLDING ICC AUTHORITY.—Any person having authority to provide transportation or service as a motor carrier, freight forwarder,

or broker under this title, as in effect on December 31, 1995, shall be deemed, for purposes of this part, to be registered to provide such transportation or service under this part.

(b) IN GENERAL.—Except as otherwise provided in this part, each registration issued under section 13902, 13903, or 13904 shall be effective from the date specified by the Secretary and shall remain in effect for such period as the Secretary determines appropriate by regulation.

(c) SUSPENSION, AMENDMENTS, AND REVOCATIONS.—On application of the registrant, the Secretary may amend or revoke a registration. On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with this part, an applicable regulation or order of the Secretary or of the Board, or a condition of its registration.

(d) PROCEDURE.—Except on application of the registrant, the Secretary may revoke a registration of a motor carrier, freight forwarder, or broker, only after—

(1) the Secretary has issued an order to the registrant under section 14701 requiring compliance with this part, a regulation of the Secretary, or a condition of the registration; and

(2) the registrant willfully does not comply with the order for a period of 30 days.

(e) EXPEDITED PROCEDURE.—

(1) PROTECTION OF SAFETY.—Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with safety requirements of the Secretary or the safety fitness requirements pursuant to section 13904(c), 13906, or 31144 of this title, or an order or regulation of the Secretary prescribed under those sections.

(2) IMMINENT HAZARD TO PUBLIC HEALTH.—Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend a registration of a motor carrier of passengers if the Secretary finds that such carrier has been conducting unsafe operations which are an imminent hazard to public health or property.

(3) NOTICE; PERIOD OF SUSPENSION.—The Secretary may suspend under this subsection the registration only after giving notice of the suspension to the registrant. The suspension remains in effect until the registrant complies with those applicable sections or, in the case of a suspension under paragraph (2), until the Secretary revokes such suspension.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 884; amended Pub. L. 104–287, § 5(33), Oct. 11, 1996, 110 Stat. 3392; Pub. L. 105–102, § 2(10), Nov. 20, 1997, 111 Stat. 2204.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287

This amends 49:13905(a) for clarity and consistency.

PUB. L. 105–102

This amends 49:13905(e)(1) to correct a grammatical error.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10925 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

AMENDMENTS

1997—Subsec. (e)(1). Pub. L. 105–102 struck out comma after ''31144''.

1996—Subsec. (a). Pub. L. 104–287 substituted ''December 31, 1995'' for ''the day before the effective date of this section''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13902 of this title.

§ 13906. Security of motor carriers, brokers, and freight forwarders

(a) MOTOR CARRIER REQUIREMENTS.—

(1) LIABILITY INSURANCE REQUIREMENT.—The Secretary may register a motor carrier under section 13902 only if the registrant files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than such amount as the Secretary prescribes pursuant to, or as is required by, sections 31138 and 31139, and the laws of the State or States in which the registrant is operating, to the extent applicable. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the registrant for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property (except property referred to in paragraph (3) of this subsection), or both. A registration remains in effect only as long as the registrant continues to satisfy the security requirements of this paragraph.

(2) AGENCY REQUIREMENT.—A motor carrier shall comply with the requirements of sections 13303 and 13304. To protect the public, the Secretary may require any such motor carrier to file the type of security that a motor carrier is required to file under paragraph (1) of this subsection. This paragraph only applies to a foreign motor private carrier and foreign motor carrier operating in the United States to the extent that such carrier is providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country.

(3) TRANSPORTATION INSURANCE.—The Secretary may require a registered motor carrier to file with the Secretary a type of security sufficient to pay a shipper or consignee for damage to property of the shipper or consignee placed in the possession of the motor carrier as the result of transportation provided under this part. A carrier required by law to pay a shipper or consignee for loss, damage, or default for which a connecting motor carrier is responsible is subrogated, to the extent of the amount paid, to the rights of the shipper or consignee under any such security.

(b) BROKER REQUIREMENTS.—The Secretary may register a person as a broker under section

13904 only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary to ensure that the transportation for which a broker arranges is provided. The registration remains in effect only as long as the broker continues to satisfy the security requirements of this subsection.

(c) FREIGHT FORWARDER REQUIREMENTS.—

(1) LIABILITY INSURANCE.—The Secretary may register a person as a freight forwarder under section 13903 of this title only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in paragraph (2) of this subsection), resulting from the negligent operation, maintenance, or use of motor vehicles by or under the direction and control of the freight forwarder when providing transfer, collection, or delivery service under this part.

(2) FREIGHT FORWARDER INSURANCE.—The Secretary may require a registered freight forwarder to file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary sufficient to pay, not more than the amount of the security, for loss of, or damage to, property for which the freight forwarder provides service.

(3) EFFECTIVE PERIOD.—The freight forwarder's registration remains in effect only as long as the freight forwarder continues to satisfy the security requirements of this subsection.

(d) TYPE OF INSURANCE.—The Secretary may determine the type and amount of security filed under this section. A motor carrier may submit proof of qualifications as a self-insurer to satisfy the security requirements of this section. The Secretary shall adopt regulations governing the standards for approval as a self-insurer. Motor carriers which have been granted authority to self-insure as of January 1, 1996, shall retain that authority unless, for good cause shown and after notice and an opportunity for a hearing, the Secretary finds that the authority must be revoked.

(e) NOTICE OF CANCELLATION OF INSURANCE.—The Secretary shall issue regulations requiring the submission to the Secretary of notices of insurance cancellation sufficiently in advance of actual cancellation so as to enable the Secretary to promptly revoke the registration of any carrier or broker after the effective date of the cancellation.

(f) FORM OF ENDORSEMENT.—The Secretary shall also prescribe the appropriate form of endorsement to be appended to policies of insurance and surety bonds which will subject the insurance policy or surety bond to the full security limits of the coverage required under this section.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 885; amended Pub. L. 104–287, §5(34), Oct. 11, 1996, 110 Stat. 3392.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10927 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–287 substituted ''January 1, 1996,'' for ''the effective date of this section''.

SELF-INSURANCE RULES

Section 104(h) of Pub. L. 104–88 provided that: ''The Secretary of Transportation shall continue to enforce the rules and regulations of the Interstate Commerce Commission, as in effect on July 1, 1995, governing the qualifications for approval of a motor carrier as a self-insurer, until such time as the Secretary finds it in the public interest to revise such rules. The revised rules must provide for—

''(1) continued ability of motor carriers to qualify as self-insurers; and

''(2) the continued qualification of all carriers then so qualified under the terms and conditions set by the Interstate Commerce Commission or Secretary at the time of qualification.''

[Interstate Commerce Commission abolished by section 101 of Pub. L. 104–88, set out as a note under section 701 of this title.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13902, 13904, 13905, 13908, 14707 of this title.

§ 13907. Household goods agents

(a) CARRIERS RESPONSIBLE FOR AGENTS.—Each motor carrier providing transportation of household goods shall be responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) and which are within the actual or apparent authority of the agent from the carrier or which are ratified by the carrier.

(b) STANDARD FOR SELECTING AGENTS.—Each motor carrier providing transportation of household goods shall use due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by this part and by such carrier.

(c) ENFORCEMENT.—

(1) COMPLAINT.—Whenever the Secretary has reason to believe from a complaint or investigation that an agent providing household goods transportation services (including accessorial and terminal services) under the authority of a motor carrier providing transportation of household goods has violated section 14901(e) or 14912 or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue to such agent a complaint stating the charges and containing notice of the time and place of a hearing which shall be held no later than 60 days after service of the complaint to such agent.

(2) RIGHT TO DEFEND.—The agent shall have the right to appear at such hearing and rebut the charges contained in the complaint.

(3) ORDER.—If the agent does not appear at the hearing or if the Secretary finds that the

agent has violated section 14901(e) or 14912 or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue an order to compel compliance with the requirement that the agent be fit, willing, and able. Thereafter, the Secretary may issue an order to limit, condition, or prohibit such agent from any involvement in the transportation or provision of services incidental to the transportation of household goods if, after notice and an opportunity for a hearing, the Secretary finds that such agent, within a reasonable time after the date of issuance of a compliance order under this section, but in no event less than 30 days after such date of issuance, has willfully failed to comply with such order.

(4) HEARING.—Upon filing of a petition with the Secretary by an agent who is the subject of an order issued pursuant to the second sentence of paragraph (3) of this subsection and after notice, a hearing shall be held with an opportunity to be heard. At such hearing, a determination shall be made whether the order issued pursuant to paragraph (3) of this subsection should be rescinded.

(5) COURT REVIEW.—Any agent adversely affected or aggrieved by an order of the Secretary issued under this subsection may seek relief in the appropriate United States court of appeals as provided by and in the manner prescribed in chapter 158 of title 28, United States Code.

(d) LIMITATION ON APPLICABILITY OF ANTITRUST LAWS.—

(1) IN GENERAL.—The antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to discussions or agreements between a motor carrier providing transportation of household goods and its agents (whether or not an agent is also a carrier) related solely to—

(A) rates for the transportation of household goods under the authority of the principal carrier;

(B) accessorial, terminal, storage, or other charges for services incidental to the transportation of household goods transported under the authority of the principal carrier;

(C) allowances relating to transportation of household goods under the authority of the principal carrier; and

(D) ownership of a motor carrier providing transportation of household goods by an agent or membership on the board of directors of any such motor carrier by an agent.

(2) BOARD REVIEW.—The Board, upon its own initiative or request, shall review any activities undertaken under paragraph (1) and shall modify or terminate the activity if necessary to protect the public interest.

(e) DEFINITIONS.—In this section, the following definitions apply:

(1) HOUSEHOLD GOODS.—The term ''household goods'' has the meaning such term had under section 10102(11) of this title, as in effect on December 31, 1995.

(2) TRANSPORTATION.—The term ''transportation'' means transportation that would be subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title, as in effect on December 31, 1995, if such subchapter were still in effect.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 887; amended Pub. L. 104–287, § 5(35), Oct. 11, 1996, 110 Stat. 3392.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287

This amends 49:13907(e)(1) and (2) for clarity and consistency.

REFERENCES IN TEXT

Section 10102(11) of this title, referred to in subsec. (e)(1), was omitted and a new section 10102 enacted in the general amendment of this subtitle by Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 804, 806, effective Jan. 1, 1996.

Subchapter II of chapter 105 of this title, referred to in subsec. (e)(2), was omitted in the general amendment of this subtitle by Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10934 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

AMENDMENTS

1996—Subsec. (e)(1). Pub. L. 104–287, § 5(35)(A), substituted ''December 31, 1995'' for ''the day before the effective date of this section''.

Subsec. (e)(2). Pub. L. 104–287, § 5(35)(B), substituted ''December 31, 1995'' for ''the day before such effective date''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13541, 14501 of this title.

§ 13908. Registration and other reforms

(a) REGULATIONS REPLACING CERTAIN PROGRAMS.—The Secretary, in cooperation with the States, and after notice and opportunity for public comment, shall issue regulations to replace the current Department of Transportation identification number system, the single State registration system under section 14504, the registration system contained in this chapter, and the financial responsibility information system under section 13906 with a single, on-line, Federal system. The new system shall serve as a clearinghouse and depository of information on and identification of all foreign and domestic motor carriers, brokers, and freight forwarders, and others required to register with the Department as well as information on safety fitness and compliance with required levels of financial responsibility. In issuing the regulations, the Secretary shall consider whether or not to integrate the requirements of section 13304 into the new system and may integrate such requirements into the new system.

(b) FACTORS TO BE CONSIDERED.—In conducting the rulemaking under subsection (a), the

Secretary shall, at a minimum, consider the following factors:

(1) Funding for State enforcement of motor carrier safety regulations.

(2) Whether the existing single State registration system is duplicative and burdensome.

(3) The justification and need for collecting the statutory fee for such system under section 14504(c)(2)(B)(iv).

(4) The public safety.

(5) The efficient delivery of transportation services.

(6) How, and under what conditions, to extend the registration system to motor private carriers and to carriers exempt under sections 13502, 13503, and 13506.

(c) FEE SYSTEM.—The Secretary may establish, under section 9701 of title 31, a fee system for registration and filing evidence of financial responsibility under the new system under subsection (a). Fees collected under the fee system shall cover the costs of operating and upgrading the registration system, including all personnel costs associated with the system. Fees collected under this subsection may be credited to the Department of Transportation appropriations account for purposes for which such fees are collected, and shall be available for expenditure until expended.

(d) STATE REGISTRATION PROGRAMS.—If the Secretary determines that no State should require insurance filings or collect fees for such filings (including filings and fees authorized under section 14504), the Secretary may prevent any State or political subdivision thereof, or any political authority of 2 or more States, from imposing any insurance filing requirements or fees that are for the same purposes as filings or fees the Secretary requires under the new system under subsection (a). The Secretary may not take any action pursuant to this subsection unless—

(1) fees that will be collected by the Secretary under subsection (c) and distributed in each fiscal year to the States will provide each State with at least as much revenue as that State received in fiscal year 1995 under section 11506, as in effect on December 31, 1995; and

(2) all States will receive from the distribution of such fees a minimum apportionment.

(e) DEADLINE FOR CONCLUSION; MODIFICATIONS.—Not later than 24 months after January 1, 1996, the Secretary—

(1) shall conclude the rulemaking under this section;

(2) may implement such changes under this section as the Secretary considers appropriate and in the public interest; and

(3) shall transmit to Congress a report on any findings of the rulemaking and the changes being implemented under this section, together with such recommendations for legislative language necessary to conform this part to such changes.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 888; amended Pub. L. 104–287, §5(36), Oct. 11, 1996, 110 Stat. 3392.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287, §5(36)(A)

This amends 49:13908(d)(1) for clarity and consistency.

PUB. L. 104–287, §5(36)(B)

This sets out the effective date of 49:13908.

REFERENCES IN TEXT

Section 11506, referred to in subsec. (d)(1), was omitted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

AMENDMENTS

1996—Subsec. (d)(1). Pub. L. 104–287, §5(36)(A), substituted ''December 31, 1995'' for ''the day before the effective date of this section''.

Subsec. (e). Pub. L. 104–287, §5(36)(B), substituted ''January 1, 1996'' for ''the effective date of this section''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13902 of this title.

CHAPTER 141—OPERATIONS OF CARRIERS

SUBCHAPTER I—GENERAL REQUIREMENTS

Sec.
14101. Providing transportation and service.
14102. Leased motor vehicles.
14103. Loading and unloading motor vehicles.
14104. Household goods carrier operations.

SUBCHAPTER II—REPORTS AND RECORDS

14121. Definitions.
14122. Records: form; inspection; preservation.
14123. Financial reporting.

SUBCHAPTER I—GENERAL REQUIREMENTS

§ 14101. Providing transportation and service

(a) ON REASONABLE REQUEST.—A carrier providing transportation or service subject to jurisdiction under chapter 135 shall provide the transportation or service on reasonable request. In addition, a motor carrier shall provide safe and adequate service, equipment, and facilities.

(b) CONTRACTS WITH SHIPPERS.—

(1) IN GENERAL.—A carrier providing transportation or service subject to jurisdiction under chapter 135 may enter into a contract with a shipper, other than for the movement of household goods described in section 13102(10)(A), to provide specified services under specified rates and conditions. If the shipper and carrier, in writing, expressly waive any or all rights and remedies under this part for the transportation covered by the contract, the transportation provided under the contract shall not be subject to the waived rights and remedies and may not be subsequently challenged on the ground that it violates the waived rights and remedies. The parties may not waive the provisions governing registration, insurance, or safety fitness.

(2) REMEDY FOR BREACH OF CONTRACT.—The exclusive remedy for any alleged breach of a contract entered into under this subsection shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 890.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11101 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13102 of this title.

§ 14102. Leased motor vehicles

(a) GENERAL AUTHORITY OF SECRETARY.—The Secretary may require a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 that uses motor vehicles not owned by it to transport property under an arrangement with another party to—

(1) make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;

(2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;

(3) inspect the motor vehicles and obtain liability and cargo insurance on them; and

(4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier.

(b) RESPONSIBLE PARTY FOR LOADING AND UNLOADING.—The Secretary shall require, by regulation, that any arrangement, between a motor carrier of property providing transportation subject to jurisdiction under subchapter I of chapter 135 and any other person, under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 890.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11107 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14704 of this title.

§ 14103. Loading and unloading motor vehicles

(a) SHIPPER RESPONSIBLE FOR ASSISTING.—Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135) be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

(b) COERCION PROHIBITED.—It shall be unlawful to coerce or attempt to coerce any person providing transportation of property by motor vehicle for compensation in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135) to load or unload any part of such property onto or from such vehicle or to employ or pay one or more persons to load or unload any part of such property onto or from such vehicle; except that this subsection shall not be construed as making unlawful any activity which is not unlawful under the National Labor Relations Act or the Act of March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.), commonly known as the Norris-LaGuardia Act.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 891.)

REFERENCES IN TEXT

The National Labor Relations Act, referred to in subsec. (b), is act July 5, 1935, ch. 372, 49 Stat. 449, as amended, which is classified generally to subchapter II (§ 151 et seq.) of chapter 7 of Title 29, Labor. For complete classification of this Act to the Code, see section 167 of Title 29 and Tables.

Act of March 23, 1932, commonly known as the Norris-LaGuardia Act, referred to in subsec. (b), is act Mar. 23, 1932, ch. 90, 47 Stat. 70, as amended, which is classified generally to chapter 6 (§ 101 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 29 and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11109 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14702, 14704, 14905 of this title.

§ 14104. Household goods carrier operations

(a) GENERAL REGULATORY AUTHORITY.—

(1) PAPERWORK MINIMIZATION.—The Secretary may issue regulations, including regulations protecting individual shippers, in order to carry out this part with respect to the transportation of household goods by motor carriers subject to jurisdiction under subchapter I of chapter 135. The regulations and paperwork required of motor carriers providing transportation of household goods shall be minimized to the maximum extent feasible consistent with the protection of individual shippers.

(2) PERFORMANCE STANDARDS.—

(A) IN GENERAL.—Regulations of the Secretary protecting individual shippers shall include, where appropriate, reasonable performance standards for the transportation of household goods subject to jurisdiction under subchapter I of chapter 135.

(B) FACTORS TO CONSIDER.—In establishing performance standards under this paragraph, the Secretary shall take into account at least the following—

(i) the level of performance that can be achieved by a well-managed motor carrier transporting household goods;

(ii) the degree of harm to individual shippers which could result from a violation of the regulation;

(iii) the need to set the level of performance at a level sufficient to deter abuses which result in harm to consumers and violations of regulations;

(iv) service requirements of the carriers;

(v) the cost of compliance in relation to the consumer benefits to be achieved from such compliance; and

(vi) the need to set the level of performance at a level designed to encourage carriers to offer service responsive to shipper needs.

(3) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to limit the Secretary's authority to require reports from motor carriers providing transportation of household goods or to require such carriers to provide specified information to consumers concerning their past performance.

(b) ESTIMATES.—

(1) AUTHORITY TO PROVIDE WITHOUT COMPENSATION.—Every motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135, upon request of a prospective shipper, may provide the shipper with an estimate of charges for transportation of household goods and for the proposed services. The Secretary shall not prohibit any such carrier from charging a prospective shipper for providing a written, binding estimate for the transportation and proposed services.

(2) APPLICABILITY OF ANTITRUST LAWS.—Any charge for an estimate of charges provided by a motor carrier to a shipper for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12).

(c) FLEXIBILITY IN WEIGHING SHIPMENTS.—The Secretary shall issue regulations that provide motor carriers providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 with the maximum possible flexibility in weighing shipments, consistent with assurance to the shipper of accurate weighing practices. The Secretary shall not prohibit such carriers from backweighing shipments or from basing their charges on the reweigh weights if the shipper observes both the tare and gross weighings (or, prior to such weighings, waives in writing the opportunity to observe such weighings) and such weighings are performed on the same scale.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 891.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11110 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SUBCHAPTER II—REPORTS AND RECORDS

§ 14121. Definitions

In this subchapter, the following definitions apply:

(1) CARRIER AND BROKER.—The terms ''carrier'' and ''broker'' include a receiver or trustee of a carrier and broker, respectively.

(2) ASSOCIATION.—The term ''association'' means an organization maintained by or in the interest of a group of carriers or brokers providing transportation or service subject to jurisdiction under chapter 135 that performs a service, or engages in activities, related to transportation under this part.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 892.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11141 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14303 of this title.

§ 14122. Records: form; inspection; preservation

(a) FORM OF RECORDS.—The Secretary or the Board, as applicable, may prescribe the form of records required to be prepared or compiled under this subchapter by carriers and brokers, including records related to movement of traffic and receipts and expenditures of money.

(b) RIGHT OF INSPECTION.—The Secretary or Board, or an employee designated by the Secretary or Board, may on demand and display of proper credentials—

(1) inspect and examine the lands, buildings, and equipment of a carrier or broker; and

(2) inspect and copy any record of—

(A) a carrier, broker, or association; and

(B) a person controlling, controlled by, or under common control with a carrier if the Secretary or Board, as applicable, considers inspection relevant to that person's relation to, or transaction with, that carrier.

(c) PERIOD FOR PRESERVATION OF RECORDS.—The Secretary or Board, as applicable, may prescribe the time period during which operating, accounting, and financial records must be preserved by carriers and brokers.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 893.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11144 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14303 of this title.

§ 14123. Financial reporting

(a) REPORTS.—

(1) ANNUAL REPORTS.—The Secretary shall require Class I and Class II motor carriers to file with the Secretary annual financial and safety reports, the form and substance of which shall be prescribed by the Secretary; except that, at a minimum, such reports shall include balance sheets and income statements.

(2) OTHER REPORTS.—The Secretary may require motor carriers, freight forwarders, brokers, lessors, and associations, or classes of them as the Secretary may prescribe, to file quarterly, periodic, or special reports with the

Secretary and to respond to surveys concerning their operations.

(b) MATTERS TO BE COVERED.—In determining the matters to be covered by any reports to be filed under subsection (a), the Secretary shall consider—

(1) safety needs;

(2) the need to preserve confidential business information and trade secrets and prevent competitive harm;

(3) private sector, academic, and public use of information in the reports; and

(4) the public interest.

(c) EXEMPTIONS.—

(1) FROM FILING.—The Secretary may exempt upon good cause shown any party from the financial reporting requirements of subsection (a). Any request for such exemption must demonstrate, at a minimum, that an exemption is required to avoid competitive harm and preserve confidential business information that is not otherwise publicly available.

(2) FROM PUBLIC RELEASE.—

(A) IN GENERAL.—The Secretary shall allow, upon request, a filer of a report under subsection (a) that is not a publicly held corporation or that is not subject to financial reporting requirements of the Securities and Exchange Commission, an exemption from the public release of such report.

(B) PROCEDURE.—After a request under subparagraph (A) and notice and opportunity for comment but in no event later than 90 days after the date of such request, the Secretary shall approve such request if the Secretary finds that the exemption requested is necessary to avoid competitive harm and to avoid the disclosure of information that qualifies as a trade secret or privileged or confidential information under section 552(b)(4) of title 5.

(C) USE OF DATA FOR INTERNAL DOT PURPOSES.—If an exemption is granted under this paragraph, nothing shall prevent the Secretary from using data from reports filed under this subsection for internal purposes of the Department of Transportation or including such data in aggregate industry statistics released for publication if such inclusion would not render the filer's data readily identifiable.

(D) PENDING REQUESTS.—The Secretary shall not release publicly the report of a carrier making a request under subparagraph (A) while such request is pending.

(3) PERIOD OF EXEMPTIONS.—Exemptions granted under this subsection shall be for 3-year periods.

(d) STREAMLINING AND SIMPLIFICATION.—The Secretary shall streamline and simplify, to the maximum extent practicable, any reporting requirements the Secretary imposes under this section.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 893; amended Pub. L. 105–102, § 2(11), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:14123(c)(2)(B) to correct a grammatical error.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11145 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

AMENDMENTS

1997—Subsec. (c)(2)(B). Pub. L. 105–102 inserted ''in'' before ''no event''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14303 of this title.

CHAPTER 143—FINANCE

Sec.
14301. Security interests in certain motor vehicles.
14302. Pooling and division of transportation or earnings.
14303. Consolidation, merger, and acquisition of control of motor carriers of passengers.

§ 14301. Security interests in certain motor vehicles

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) MOTOR VEHICLE.—The term ''motor vehicle'' means a truck of rated capacity (gross vehicle weight) of at least 10,000 pounds, a highway tractor of rated capacity (gross combination weight) of at least 10,000 pounds, a property-carrying trailer or semitrailer with at least one load-carrying axle of at least 10,000 pounds, or a motor bus with a seating capacity of at least 10 individuals.

(2) LIEN CREDITOR.—The term ''lien creditor'' means a creditor having a lien on a motor vehicle and includes an assignee for benefit of creditors from the date of assignment, a trustee in a case under title 11 from the date of filing of the petition in that case, and a receiver in equity from the date of appointment of the receiver.

(3) SECURITY INTEREST.—The term ''security interest'' means an interest (including an interest established by a conditional sales contract, mortgage, equipment trust, or other lien or title retention contract, or lease) in a motor vehicle when the interest secures payment or performance of an obligation.

(4) PERFECTION.—The term ''perfection'', as related to a security interest, means taking action (including public filing, recording, notation on a certificate of title, and possession of collateral by the secured party), or the existence of facts, required under law to make a security interest enforceable against general creditors and subsequent lien creditors of a debtor, but does not include compliance with requirements related only to the establishment of a valid security interest between the debtor and the secured party.

(b) REQUIREMENTS FOR PERFECTION OF SECURITY INTEREST.—A security interest in a motor vehicle owned by, or in the possession and use of, a carrier registered under section 13902 of this title and owing payment or performance of

an obligation secured by that security interest is perfected in all jurisdictions against all general, and subsequent lien, creditors of, and all persons taking a motor vehicle by sale (or taking or retaining a security interest in a motor vehicle) from, that carrier when—

(1) a certificate of title is issued for a motor vehicle under a law of a jurisdiction that requires or permits indication, on a certificate or title, of a security interest in the motor vehicle if the security interest is indicated on the certificate;

(2) a certificate of title has not been issued and the law of the State where the principal place of business of that carrier is located requires or permits public filing or recording of, or in relation to, that security interest if there has been such a public filing or recording; and

(3) a certificate of title has not been issued and the security interest cannot be perfected under paragraph (2) of this subsection, if the security interest has been perfected under the law (including the conflict of laws rules) of the State where the principal place of business of that carrier is located.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 894.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11304 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

§ 14302. Pooling and division of transportation or earnings

(a) APPROVAL REQUIRED.—A carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 may not agree or combine with another such carrier to pool or divide traffic or services or any part of their earnings without the approval of the Board under this section.

(b) STANDARDS FOR APPROVAL.—The Board may approve and authorize an agreement or combination between or among motor carriers of passengers, or between a motor carrier of passengers and a rail carrier of passengers if the carriers involved assent to the pooling or division and the Board finds that a pooling or division of traffic, services, or earnings—

(1) will be in the interest of better service to the public or of economy of operation; and

(2) will not unreasonably restrain competition.

(c) PROCEDURE.—

(1) APPLICATION.—Any motor carrier of property may apply to the Board for approval of an agreement or combination with another such carrier to pool or divide traffic or any services or any part of their earnings by filing such agreement or combination with the Board not less than 50 days before its effective date.

(2) DETERMINATION OF IMPORTANCE AND RESTRAINT ON COMPETITION.—Prior to the effective date of the agreement or combination, the Board shall determine whether the agreement or combination is of major transportation importance and whether there is substantial likelihood that the agreement or combination will unduly restrain competition. If the Board determines that neither of these 2 factors exists, it shall, prior to such effective date and without a hearing, approve and authorize the agreement or combination, under such rules and regulations as the Board may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Board to be just and reasonable.

(3) HEARING.—If the Board determines either that the agreement or combination is of major transportation importance or that there is substantial likelihood that the agreement or combination will unduly restrain competition, the Board shall hold a hearing concerning whether the agreement or combination will be in the interest of better service to the public or of economy in operation and whether it will unduly restrain competition and shall suspend operation of such agreement or combination pending such hearing and final decision thereon. After such hearing, the Board shall indicate to what extent it finds that the agreement or combination will be in the interest of better service to the public or of economy in operation and will not unduly restrain competition and if assented to by all the carriers involved, shall to that extent, approve and authorize the agreement or combination, under such rules and regulations as the Board may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Board to be just and reasonable.

(4) SPECIAL RULES FOR HOUSEHOLD GOODS CARRIERS.—In the case of an application for Board approval of an agreement or combination between a motor carrier providing transportation of household goods and its agents to pool or divide traffic or services or any part of their earnings, such agreement or combination shall be presumed to be in the interest of better service to the public and of economy in operation and not to restrain competition unduly if the practices proposed to be carried out under such agreement or combination are the same as or similar to practices carried out under agreements and combinations between motor carriers providing transportation of household goods to pool or divide traffic or service of any part of their earnings approved by the Interstate Commerce Commission before January 1, 1996.

(5) STREAMLINING AND SIMPLIFYING.—The Board shall streamline, simplify, and expedite, to the maximum extent practicable, the process (including any paperwork) for submission and approval of applications under this section for agreements and combinations between motor carriers providing transportation of household goods and their agents.

(d) CONDITIONS.—The Board may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the carriers.

(e) INITIATION OF PROCEEDING.—The Board may begin a proceeding under this section on its own initiative or on application.

(f) EFFECT OF APPROVAL.—A carrier may participate in an arrangement approved by or exempted by the Board under this section without the approval of any other Federal, State, or municipal body. A carrier participating in an approved or exempted arrangement is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the arrangement.

(g) CONTINUATION OF EXISTING AGREEMENTS.—Any agreements in operation under the provisions of this title on January 1, 1996, that are succeeded by this section shall remain in effect until further order of the Board.

(h) DEFINITIONS.—In this section, the following definitions apply:

(1) HOUSEHOLD GOODS.—The term ''household goods'' has the meaning such term had under section 10102(11) of this title, as in effect on December 31, 1995.

(2) TRANSPORTATION.—The term ''transportation'' means transportation that would be subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title, as in effect on December 31, 1995, if such subchapter were still in effect.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 895; amended Pub. L. 104–287, § 5(37), Oct. 11, 1996, 110 Stat. 3392.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287, § 5(37)(A), (B)

This sets out the effective date of 49:14302.

PUB. L. 104–287, § 5(37)(C), (D)

This amends 49:14302(h)(1) and (2) for clarity and consistency.

REFERENCES IN TEXT

The antitrust laws, referred to in subsec. (f), are classified generally to section 1 et seq. of Title 15, Commerce and Trade.

Section 10102(11) of this title, referred to in subsec. (h)(1), was omitted and a new section 10102 enacted in the general amendment of this subtitle by Pub. L. 104–88, title I, § 102(a), Dec. 20, 1995, 109 Stat. 804, 806, effective Jan. 1, 1996.

Subchapter II of chapter 105 of this title, referred to in subsec. (h)(2), was omitted in the general amendment of this subtitle by Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 11341 and 11342 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

AMENDMENTS

1996—Subsec. (c)(4). Pub. L. 104–287, § 5(37)(A), substituted ''January 1, 1996'' for ''the effective date of this section''.

Subsec. (g). Pub. L. 104–287, § 5(37)(B), substituted ''January 1, 1996,'' for ''the effective date of this section''.

Subsec. (h)(1). Pub. L. 104–287, § 5(37)(C), substituted ''December 31, 1995'' for ''the day before the effective date of this section''.

Subsec. (h)(2). Pub. L. 104–287, § 5(37)(D), substituted ''December 31, 1995'' for ''the day before such effective date''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13541, 24305 of this title.

§ 14303. Consolidation, merger, and acquisition of control of motor carriers of passengers

(a) APPROVAL REQUIRED.—The following transactions involving motor carriers of passengers subject to jurisdiction under subchapter I of chapter 135 may be carried out only with the approval of the Board:

(1) Consolidation or merger of the properties or franchises of at least 2 carriers into one operation for the ownership, management, and operation of the previously separately owned properties.

(2) A purchase, lease, or contract to operate property of another carrier by any number of carriers.

(3) Acquisition of control of a carrier by any number of carriers.

(4) Acquisition of control of at least 2 carriers by a person that is not a carrier.

(5) Acquisition of control of a carrier by a person that is not a carrier but that controls any number of carriers.

(b) STANDARD FOR APPROVAL.—The Board shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Board shall consider at least the following:

(1) The effect of the proposed transaction on the adequacy of transportation to the public.

(2) The total fixed charges that result from the proposed transaction.

(3) The interest of carrier employees affected by the proposed transaction.

The Board may impose conditions governing the transaction.

(c) DETERMINATION OF COMPLETENESS OF APPLICATION.—Within 30 days after the date on which an application is filed under this section, the Board shall either publish a notice of the application in the Federal Register or reject the application if it is incomplete.

(d) COMMENTS.—Written comments about an application may be filed with the Board within 45 days after the date on which notice of the application is published under subsection (c).

(e) DEADLINES.—The Board shall conclude evidentiary proceedings by the 240th day after the date on which notice of the application is published under subsection (c). The Board shall issue a final decision by the 180th day after the conclusion of the evidentiary proceedings. The Board may extend a time period under this subsection; except that the total of all such extensions with respect to any application shall not exceed 90 days.

(f) EFFECT OF APPROVAL.—A carrier or corporation participating in or resulting from a transaction approved by the Board under this section, or exempted by the Board from the application of this section pursuant to section 13541, may carry out the transaction, own and

operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A carrier, corporation, or person participating in the approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction.

(g) LIMITATION ON APPLICABILITY.—This section shall not apply to transactions involving carriers whose aggregate gross operating revenues were not more than $2,000,000 during a period of 12 consecutive months ending not more than 6 months before the date of the agreement of the parties.

(h) APPLICABILITY OF CERTAIN PROVISIONS.—When the Board approves and authorizes a transaction under this section in which a person not a carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 acquires control of at least 1 carrier subject to such jurisdiction, the person is subject, as a carrier, to the following provisions of this title that apply to the carrier being acquired by that person, to the extent specified by the Board: sections 504(f), 14121–14123, 14901(a), and 14907.

(i) INTERIM APPROVAL.—Pending determination of an application filed under this section, the Board may approve, for a period of not more than 180 days, the operation of the properties sought to be acquired by the person proposing in the application to acquire those properties, when it appears that failure to do so may result in destruction of or injury to those properties or substantially interfere with their future usefulness in providing adequate and continuous service to the public. Transportation provided by a motor carrier under a grant of approval under this subsection is subject to this part.

(j) SUPPLEMENTAL ORDERS.—When cause exists, the Board may issue appropriate orders supplemental to an order made in a proceeding under this section.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 897.)

REFERENCE IN TEXT

The antitrust laws, referred to in subsec. (f), are classified generally to section 1 et seq. of Title 15, Commerce and Trade.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 11341, 11343, 11344, 11345a, 11348, 11349, and 11351 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

CHAPTER 145—FEDERAL-STATE RELATIONS

Sec.

14501. Federal authority over intrastate transportation.
14502. Tax discrimination against motor carrier transportation property.
14503. Withholding State and local income tax by certain carriers.
14504. Registration of motor carriers by a State.
14505. State tax.

§ 14501. Federal authority over intrastate transportation

(a) MOTOR CARRIERS OF PASSENGERS.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to scheduling of interstate or intrastate transportation (including discontinuance or reduction in the level of service) provided by motor carrier of passengers subject to jurisdiction under subchapter I of chapter 135 of this title on an interstate route or relating to the implementation of any change in the rates for such transportation or for any charter transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required. This subsection shall not apply to intrastate commuter bus operations.

(b) FREIGHT FORWARDERS AND BROKERS.—

(1) GENERAL RULE.—Subject to paragraph (2) of this subsection, no State or political subdivision thereof and no intrastate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to intrastate rates, intrastate routes, or intrastate services of any freight forwarder or broker.

(2) CONTINUATION OF HAWAII'S AUTHORITY.—Nothing in this subsection and the amendments made by the Surface Freight Forwarder Deregulation Act of 1986 shall be construed to affect the authority of the State of Hawaii to continue to regulate a motor carrier operating within the State of Hawaii.

(c) MOTOR CARRIERS OF PROPERTY.—

(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier (other than a carrier affiliated with a direct air carrier covered by section 41713(b)(4)) or any motor private carrier, broker, or freight forwarder with respect to the transportation of property.

(2) MATTERS NOT COVERED.—Paragraph (1)—

(A) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization;

(B) does not apply to the transportation of household goods; and

(C) does not apply to the authority of a State or a political subdivision of a State to enact or enforce a law, regulation, or other provision relating to the price of for-hire motor vehicle transportation by a tow truck, if such transportation is performed without the prior consent or authorization

of the owner or operator of the motor vehicle.

(3) STATE STANDARD TRANSPORTATION PRACTICES.—

(A) CONTINUATION.—Paragraph (1) shall not affect any authority of a State, political subdivision of a State, or political authority of 2 or more States to enact or enforce a law, regulation, or other provision, with respect to the intrastate transportation of property by motor carriers, related to—

(i) uniform cargo liability rules,

(ii) uniform bills of lading or receipts for property being transported,

(iii) uniform cargo credit rules,

(iv) antitrust immunity for joint line rates or routes, classifications, mileage guides, and pooling, or

(v) antitrust immunity for agent-van line operations (as set forth in section 13907),

if such law, regulation, or provision meets the requirements of subparagraph (B).

(B) REQUIREMENTS.—A law, regulation, or provision of a State, political subdivision, or political authority meets the requirements of this subparagraph if—

(i) the law, regulation, or provision covers the same subject matter as, and compliance with such law, regulation, or provision is no more burdensome than compliance with, a provision of this part or a regulation issued by the Secretary or the Board under this part; and

(ii) the law, regulation, or provision only applies to a carrier upon request of such carrier.

(C) ELECTION.—Notwithstanding any other provision of law, a carrier affiliated with a direct air carrier through common controlling ownership may elect to be subject to a law, regulation, or provision of a State, political subdivision, or political authority under this paragraph.

(4) NONAPPLICABILITY TO HAWAII.—This subsection shall not apply with respect to the State of Hawaii.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 899.)

REFERENCES IN TEXT

The Surface Freight Forwarder Deregulation Act of 1986, referred to in subsec. (b)(2), is Pub. L. 99–521, Oct. 22, 1986, 100 Stat. 2993. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 10101 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11501 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13902 of this title.

§ 14502. Tax discrimination against motor carrier transportation property

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ASSESSMENT.—The term ''assessment'' means valuation for a property tax levied by a taxing district.

(2) ASSESSMENT JURISDICTION.—The term ''assessment jurisdiction'' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation.

(3) MOTOR CARRIER TRANSPORTATION PROPERTY.—The term ''motor carrier transportation property'' means property, as defined by the Secretary, owned or used by a motor carrier providing transportation in interstate commerce whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135.

(4) COMMERCIAL AND INDUSTRIAL PROPERTY.—The term ''commercial and industrial property'' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use, and subject to a property tax levy.

(b) ACTS BURDENING INTERSTATE COMMERCE.—The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

(1) EXCESSIVE VALUATION OF PROPERTY.—Assess motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(2) TAX ON ASSESSMENT.—Levy or collect a tax on an assessment that may not be made under paragraph (1).

(3) AD VALOREM TAX.—Levy or collect an ad valorem property tax on motor carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(c) JURISDICTION.—

(1) IN GENERAL.—Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section.

(2) LIMITATION IN RELIEF.—Relief may be granted under this subsection only if the ratio of assessed value to true market value of motor carrier transportation property exceeds, by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction.

(3) BURDEN OF PROOF.—The burden of proof in determining assessed value and true market value is governed by State law.

(4) VIOLATION.—If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

(A) an assessment of the motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the assessment value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all such other property; and

(B) the collection of ad valorem property tax on the motor carrier transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 900.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11503a of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 14503. Withholding State and local income tax by certain carriers

(a) SINGLE STATE TAX WITHHOLDING.—

(1) IN GENERAL.—No part of the compensation paid by a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 or by a motor private carrier to an employee who performs regularly assigned duties in 2 or more States as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.

(2) EMPLOYEE DEFINED.—In this subsection, the term ''employee'' has the meaning given such term in section 31132.

(b) SPECIAL RULES.—

(1) CALCULATION OF EARNINGS.—In this subsection, an employee is deemed to have earned more than 50 percent of pay in a State or subdivision of that State in which the time worked by the employee in the State or subdivision is more than 50 percent of the total time worked by the employee while employed during the calendar year.

(2) WATER CARRIERS.—A water carrier providing transportation subject to jurisdiction under subchapter II of chapter 135 shall file income tax information returns and other reports only with—

(A) the State and subdivision of residence of the employee (as shown on the employment records of the carrier); and

(B) the State and subdivision in which the employee earned more than 50 percent of the pay received by the employee from the carrier during the preceding calendar year.

(3) APPLICABILITY TO SAILORS.—This subsection applies to pay of a master, officer, or sailor who is a member of the crew on a vessel engaged in foreign, coastwise, intercoastal, or noncontiguous trade or in the fisheries of the United States.

(c) FILING OF INFORMATION.—A motor and motor private carrier withholding pay from an employee under subsection (a) of this section shall file income tax information returns and other reports only with the State and subdivision of residence of the employee.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 901.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11504 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 14504. Registration of motor carriers by a State

(a) DEFINITIONS.—In this section, the terms ''standards'' and ''amendments to standards'' mean the specification of forms and procedures required by regulations of the Secretary to prove the lawfulness of transportation by motor carrier referred to in section 13501.

(b) GENERAL RULE.—The requirement of a State that a motor carrier, providing transportation subject to jurisdiction under subchapter I of chapter 135 and providing transportation in that State, must register with the State is not an unreasonable burden on transportation referred to in section 13501 when the State registration is completed under standards of the Secretary under subsection (c). When a State registration requirement imposes obligations in excess of the standards of the Secretary, the part in excess is an unreasonable burden.

(c) SINGLE STATE REGISTRATION SYSTEM.—

(1) IN GENERAL.—The Secretary shall maintain standards for implementing a system under which—

(A) a motor carrier is required to register annually with only one State by providing evidence of its Federal registration under chapter 139;

(B) the State of registration shall fully comply with standards prescribed under this section; and

(C) such single State registration shall be deemed to satisfy the registration requirements of all other States.

(2) SPECIFIC REQUIREMENTS.—

(A) EVIDENCE OF FEDERAL REGISTRATION; PROOF OF INSURANCE; PAYMENT OF FEES.—Under the standards of the Secretary implementing the single State registration system described in paragraph (1) of this subsection, only a State acting in its capacity as registration State under such single State system may require a motor carrier registered by the Secretary under this part—

(i) to file and maintain evidence of such Federal registration;

(ii) to file satisfactory proof of required insurance or qualification as a self-insurer;

(iii) to pay directly to such State fee amounts in accordance with the fee system established under subparagraph (B)(iv)

of this paragraph, subject to allocation of fee revenues among all States in which the carrier operates and which participate in the single State registration system; and

(iv) to file the name of a local agent for service of process.

(B) RECEIPTS; FEE SYSTEM.—The standards of the Secretary—

(i) shall require that the registration State issue a receipt, in a form prescribed under the standards, reflecting that the carrier has filed proof of insurance as provided under subparagraph (A)(ii) of this paragraph and has paid fee amounts in accordance with the fee system established under clause (iv) of this subparagraph;

(ii) shall require that copies of the receipt issued under clause (i) of this subparagraph be kept in each of the carrier's commercial motor vehicles;

(iii) shall not require decals, stamps, cab cards, or any other means of registering or identifying specific vehicles operated by the carrier;

(iv) shall establish a fee system for the filing of proof of insurance as provided under subparagraph (A)(ii) of this paragraph that—

(I) is based on the number of commercial motor vehicles the carrier operates in a State and on the number of States in which the carrier operates;

(II) minimizes the costs of complying with the registration system; and

(III) results in a fee for each participating State that is equal to the fee, not to exceed $10 per vehicle, that such State collected or charged as of November 15, 1991; and

(v) shall not authorize the charging or collection of any fee for filing and maintaining evidence of Federal registration under subparagraph (A)(i) of this paragraph.

(C) PROHIBITED FEES.—The charging or collection of any fee under this section that is not in accordance with the fee system established under subparagraph (B)(iv) of this paragraph shall be deemed to be a burden on interstate commerce.

(D) LIMITATION ON PARTICIPATION BY STATES.—Only a State which, as of January 1, 1991, charged or collected a fee for a vehicle identification stamp or number under part 1023 of title 49, Code of Federal Regulations, shall be eligible to participate as a registration State under this subsection or to receive any fee revenue under this subsection.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 902.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11506 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13908 of this title.

§ 14505. State tax

A State or political subdivision thereof may not collect or levy a tax, fee, head charge, or other charge on—

(1) a passenger traveling in interstate commerce by motor carrier;

(2) the transportation of a passenger traveling in interstate commerce by motor carrier;

(3) the sale of passenger transportation in interstate commerce by motor carrier; or

(4) the gross receipts derived from such transportation.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 904.)

CHAPTER 147—ENFORCEMENT; INVESTIGATIONS; RIGHTS; REMEDIES

Sec.
14701. General authority.
14702. Enforcement by the regulatory authority.
14703. Enforcement by the Attorney General.
14704. Rights and remedies of persons injured by carriers or brokers.
14705. Limitation on actions by and against carriers.
14706. Liability of carriers under receipts and bills of lading.
14707. Private enforcement of registration requirement.
14708. Dispute settlement program for household goods carriers.
14709. Tariff reconciliation rules for motor carriers of property.

§ 14701. General authority

(a) INVESTIGATIONS.—The Secretary or the Board, as applicable, may begin an investigation under this part on the Secretary's or the Board's own initiative or on complaint. If the Secretary or Board, as applicable, finds that a carrier or broker is violating this part, the Secretary or Board, as applicable, shall take appropriate action to compel compliance with this part. If the Secretary finds that a foreign motor carrier or foreign motor private carrier is violating chapter 139, the Secretary shall take appropriate action to compel compliance with that chapter. The Secretary or Board, as applicable, may take action under this subsection only after giving the carrier or broker notice of the investigation and an opportunity for a proceeding.

(b) COMPLAINTS.—A person, including a governmental authority, may file with the Secretary or Board, as applicable, a complaint about a violation of this part by a carrier providing, or broker for, transportation or service subject to jurisdiction under this part or a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title. The complaint must state the facts that are the subject of the violation. The Secretary or Board, as applicable, may dismiss a complaint that it determines does not state reasonable grounds for investigation and action.

(c) DEADLINE.—A formal investigative proceeding begun by the Secretary or Board under subsection (a) of this section is dismissed automatically unless it is concluded with administrative finality by the end of the 3d year after the date on which it was begun.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 904.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11701 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13905, 14704 of this title.

§ 14702. Enforcement by the regulatory authority

(a) IN GENERAL.—The Secretary or the Board, as applicable, may bring a civil action—

(1) to enforce section 14103 of this title; or

(2) to enforce this part, or a regulation or order of the Secretary or Board, as applicable, when violated by a carrier or broker providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title or by a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title.

(b) VENUE.—In a civil action under subsection (a)(2) of this section—

(1) trial is in the judicial district in which the carrier, foreign motor carrier, foreign motor private carrier, or broker operates;

(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.

(c) STANDING.—The Board, through its own attorneys, may bring or participate in any civil action involving motor carrier undercharges.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 905.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11702 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 14703. Enforcement by the Attorney General

The Attorney General may, and on request of either the Secretary or the Board shall, bring court proceedings—

(1) to enforce this part or a regulation or order of the Secretary or Board or terms of registration under this part; and

(2) to prosecute a person violating this part or a regulation or order of the Secretary or Board or term of registration under this part.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 905.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11703 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 14704. Rights and remedies of persons injured by carriers or brokers

(a) IN GENERAL.—

(1) ENFORCEMENT OF ORDER.—A person injured because a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 does not obey an order of the Secretary or the Board, as applicable, under this part, except an order for the payment of money, may bring a civil action to enforce that order under this subsection. A person may bring a civil action for injunctive relief for violations of sections 14102 and 14103.

(2) DAMAGES FOR VIOLATIONS.—A carrier or broker providing transportation or service subject to jurisdiction under chapter 135 is liable for damages sustained by a person as a result of an act or omission of that carrier or broker in violation of this part.

(b) LIABILITY AND DAMAGES FOR EXCEEDING TARIFF RATE.—A carrier providing transportation or service subject to jurisdiction under chapter 135 is liable to a person for amounts charged that exceed the applicable rate for transportation or service contained in a tariff in effect under section 13702.

(c) ELECTION.—

(1) COMPLAINT TO DOT OR BOARD; CIVIL ACTION.—A person may file a complaint with the Board or the Secretary, as applicable, under section 14701(b) or bring a civil action under subsection (b) to enforce liability against a carrier or broker providing transportation or service subject to jurisdiction under chapter 135.

(2) ORDER OF DOT OR BOARD.—

(A) IN GENERAL.—When the Board or Secretary, as applicable, makes an award under subsection (b) of this section, the Board or Secretary, as applicable, shall order the carrier to pay the amount awarded by a specific date. The Board or Secretary, as applicable, may order a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 to pay damages only when the proceeding is on complaint.

(B) ENFORCEMENT BY CIVIL ACTION.—The person for whose benefit an order of the Board or Secretary requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the carrier or broker does not pay the amount awarded by the date payment was ordered to be made.

(d) PROCEDURE.—

(1) IN GENERAL.—When a person begins a civil action under subsection (b) of this section to enforce an order of the Board or Secretary requiring the payment of damages by a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title, the text of the order of the Board or Secretary must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Board or Secretary are competent evidence of the facts stated in them. Trial in a civil action

brought in a district court of the United States under this paragraph is in the judicial district in which the plaintiff resides or in which the principal operating office of the carrier or broker is located. In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

(2) PARTIES.—All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

(e) ATTORNEY'S FEES.—The district court shall award a reasonable attorney's fee under this section. The district court shall tax and collect that fee as part of the costs of the action.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 905.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11705 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14705 of this title.

§ 14705. Limitation on actions by and against carriers

(a) IN GENERAL.—A carrier providing transportation or service subject to jurisdiction under chapter 135 must begin a civil action to recover charges for transportation or service provided by the carrier within 18 months after the claim accrues.

(b) OVERCHARGES.—A person must begin a civil action to recover overcharges within 18 months after the claim accrues. If the claim is against a carrier providing transportation subject to jurisdiction under chapter 135 and an election to file a complaint with the Board or Secretary, as applicable, is made under section 14704(c)(1), the complaint must be filed within 3 years after the claim accrues.

(c) DAMAGES.—A person must file a complaint with the Board or Secretary, as applicable, to recover damages under section 14704(b) within 2 years after the claim accrues.

(d) EXTENSIONS.—The limitation periods under subsection (b) of this section are extended for 6 months from the time written notice is given to the claimant by the carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the carrier within those limitation periods. The limitation periods under subsections (b) and (c) of this section are extended for 90 days from the time the carrier begins a civil action under subsection (a) to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

(e) PAYMENT.—A person must begin a civil action to enforce an order of the Board or Secretary against a carrier within 1 year after the date of the order.

(f) GOVERNMENT TRANSPORTATION.—This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the later of the date of—

(1) payment of the rate for the transportation or service involved;

(2) subsequent refund for overpayment of that rate; or

(3) deduction made under section 3726 of title 31.

(g) ACCRUAL DATE.—A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the carrier.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 907.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11706 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 14706. Liability of carriers under receipts and bills of lading

(a) GENERAL LIABILITY.—

(1) MOTOR CARRIERS AND FREIGHT FORWARDERS.—A carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 shall issue a receipt or bill of lading for property it receives for transportation under this part. That carrier and any other carrier that delivers the property and is providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or chapter 105 are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this paragraph is for the actual loss or injury to the property caused by (A) the receiving carrier, (B) the delivering carrier, or (C) another carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading and, except in the case of a freight forwarder, applies to property reconsigned or diverted under a tariff under section 13702. Failure to issue a receipt or bill of lading does not affect the liability of a carrier. A delivering carrier is deemed to be the carrier performing the line-haul transportation nearest the destination but does not include a carrier providing only a switching service at the destination.

(2) FREIGHT FORWARDER.—A freight forwarder is both the receiving and delivering

carrier. When a freight forwarder provides service and uses a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 to receive property from a consignor, the motor carrier may execute the bill of lading or shipping receipt for the freight forwarder with its consent. With the consent of the freight forwarder, a motor carrier may deliver property for a freight forwarder on the freight forwarder's bill of lading, freight bill, or shipping receipt to the consignee named in it, and receipt for the property may be made on the freight forwarder's delivery receipt.

(b) APPORTIONMENT.—The carrier issuing the receipt or bill of lading under subsection (a) of this section or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

(c) SPECIAL RULES.—

(1) MOTOR CARRIERS.—

(A) SHIPPER WAIVER.—Subject to the provisions of subparagraph (B), a carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 may, subject to the provisions of this chapter (including with respect to a motor carrier, the requirements of section 13710(a)), establish rates for the transportation of property (other than household goods described in section 13102(10)(A)) under which the liability of the carrier for such property is limited to a value established by written or electronic declaration of the shipper or by written agreement between the carrier and shipper if that value would be reasonable under the circumstances surrounding the transportation.

(B) CARRIER NOTIFICATION.—If the motor carrier is not required to file its tariff with the Board, it shall provide under section 13710(a)(1) to the shipper, on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices upon which any rate applicable to a shipment, or agreed to between the shipper and the carrier, is based. The copy provided by the carrier shall clearly state the dates of applicability of the rate, classification, rules, or practices.

(C) PROHIBITION AGAINST COLLECTIVE ESTABLISHMENT.—No discussion, consideration, or approval as to rules to limit liability under this subsection may be undertaken by carriers acting under an agreement approved pursuant to section 13703.

(2) WATER CARRIERS.—If loss or injury to property occurs while it is in the custody of a water carrier, the liability of that carrier is determined by its bill of lading and the law applicable to water transportation. The liability of the initial or delivering carrier is the same as the liability of the water carrier.

(d) CIVIL ACTIONS.—

(1) AGAINST DELIVERING CARRIER.—A civil action under this section may be brought against a delivering carrier in a district court of the United States or in a State court. Trial, if the action is brought in a district court of the United States is in a judicial district, and if in a State court, is in a State through which the defendant carrier operates.

(2) AGAINST CARRIER RESPONSIBLE FOR LOSS.—A civil action under this section may be brought against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

(3) JURISDICTION OF COURTS.—A civil action under this section may be brought in a United States district court or in a State court.

(4) JUDICIAL DISTRICT DEFINED.—In this section, ''judicial district'' means—

(A) in the case of a United States district court, a judicial district of the United States; and

(B) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.

(e) MINIMUM PERIOD FOR FILING CLAIMS.—

(1) IN GENERAL.—A carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice.

(2) SPECIAL RULES.—For the purposes of this subsection—

(A) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

(B) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reason for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

(f) LIMITING LIABILITY OF HOUSEHOLD GOODS CARRIERS TO DECLARED VALUE.—A carrier or group of carriers subject to jurisdiction under subchapter I or III of chapter 135 may petition the Board to modify, eliminate, or establish rates for the transportation of household goods under which the liability of the carrier for that property is limited to a value established by written declaration of the shipper or by a written agreement.

(g) MODIFICATIONS AND REFORMS.—

(1) STUDY.—The Secretary shall conduct a study to determine whether any modifications or reforms should be made to the loss and damage provisions of this section, including those related to limitation of liability by carriers.

(2) FACTORS TO CONSIDER.—In conducting the study, the Secretary, at a minimum, shall consider—

(A) the efficient delivery of transportation services;

(B) international and intermodal harmony;

(C) the public interest; and

(D) the interest of carriers and shippers.

(3) REPORT.—Not later than 12 months after January 1, 1996, the Secretary shall submit to Congress a report on the results of the study, together with any recommendations of the Secretary (including legislative recommendations) for implementing modifications or reforms identified by the Secretary as being appropriate.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 907; amended Pub. L. 104–287, § 5(38), Oct. 11, 1996, 110 Stat. 3392.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10730 and 11707 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

AMENDMENTS

1996—Subsec. (g)(3). Pub. L. 104–287 substituted ''January 1, 1996'' for ''the effective date of this section''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 28 sections 1337, 1445.

§ 14707. Private enforcement of registration requirement

(a) IN GENERAL.—If a person provides transportation by motor vehicle or service in clear violation of section 13901–13904 or 13906, a person injured by the transportation or service may bring a civil action to enforce any such section. In a civil action under this subsection, trial is in the judicial district in which the person who violated that section operates.

(b) PROCEDURE.—A copy of the complaint in a civil action under subsection (a) shall be served on the Secretary and a certificate of service must appear in the complaint filed with the court. The Secretary may intervene in a civil action under subsection (a). The Secretary may notify the district court in which the action is pending that the Secretary intends to consider the matter that is the subject of the complaint in a proceeding before the Secretary. When that notice is filed, the court shall stay further action pending disposition of the proceeding before the Secretary.

(c) ATTORNEY'S FEES.—In a civil action under subsection (a), the court may determine the amount of and award a reasonable attorney's fee to the prevailing party. That fee is in addition to costs allowable under the Federal Rules of Civil Procedure.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 910.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (c), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11708 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 14708. Dispute settlement program for household goods carriers

(a) OFFERING SHIPPERS ARBITRATION.—As a condition of registration under section 13902 or 13903, a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 must agree to offer in accordance with this section to shippers of household goods arbitration as a means of settling disputes between such carriers and shippers of household goods concerning damage or loss to the household goods transported.

(b) ARBITRATION REQUIREMENTS.—

(1) PREVENTION OF SPECIAL ADVANTAGE.—The arbitration that is offered must be designed to prevent a carrier from having any special advantage in any case in which the claimant resides or does business at a place distant from the carrier's principal or other place of business.

(2) NOTICE OF ARBITRATION PROCEDURE.—The carrier must provide the shipper an adequate notice of the availability of neutral arbitration, including a concise easy-to-read, accurate summary of the arbitration procedure, any applicable costs, and disclosure of the legal effects of election to utilize arbitration. Such notice must be given to persons for whom household goods are to be transported by the carrier before such goods are tendered to the carrier for transportation.

(3) PROVISION OF FORMS.—Upon request of a shipper, the carrier must promptly provide such forms and other information as are necessary for initiating an action to resolve a dispute under arbitration.

(4) INDEPENDENCE OF ARBITRATOR.—Each person authorized to arbitrate or otherwise settle disputes must be independent of the parties to the dispute and must be capable, as determined under such regulations as the Secretary may issue, to resolve such disputes fairly and expeditiously. The carrier must ensure that each person chosen to settle the disputes is authorized and able to obtain from the shipper or carrier any material and relevant information to the extent necessary to carry out a fair and expeditious decisionmaking process.

(5) APPORTIONMENT OF COSTS.—No shipper may be charged more than half of the cost for instituting an arbitration proceeding that is brought under this section. In the decision, the arbitrator may determine which party shall pay the cost or a portion of the cost of the arbitration proceeding, including the cost of instituting the proceeding.

(6) REQUESTS.—The carrier must not require the shipper to agree to utilize arbitration prior to the time that a dispute arises. If the dispute involves a claim for $1,000 or less and the shipper requests arbitration, such arbitration shall be binding on the parties. If the dispute involves a claim for more than $1,000 and the shipper requests arbitration, such arbitration shall be binding on the parties only if the carrier agrees to arbitration.

(7) ORAL PRESENTATION OF EVIDENCE.—The arbitrator may provide for an oral presentation of a dispute concerning transportation of household goods by a party to the dispute

(or a party's representative), but such oral presentation may be made only if all parties to the dispute expressly agree to such presentation and the date, time, and location of such presentation.

(8) DEADLINE FOR DECISION.—The arbitrator must, as expeditiously as possible but at least within 60 days of receipt of written notification of the dispute, render a decision based on the information gathered; except that, in any case in which a party to the dispute fails to provide in a timely manner any information concerning such dispute which the person settling the dispute may reasonably require to resolve the dispute, the arbitrator may extend such 60-day period for a reasonable period of time. A decision resolving a dispute may include any remedies appropriate under the circumstances, including repair, replacement, refund, reimbursement for expenses, and compensation for damages.

(c) LIMITATION ON USE OF MATERIALS.—Materials and information obtained in the course of a decision making process to settle a dispute by arbitration under this section may not be used to bring an action under section 14905.

(d) ATTORNEY'S FEES TO SHIPPERS.—In any court action to resolve a dispute between a shipper of household goods and a carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 concerning the transportation of household goods by such carrier, the shipper shall be awarded reasonable attorney's fees if—

(1) the shipper submits a claim to the carrier within 120 days after the date the shipment is delivered or the date the delivery is scheduled, whichever is later;

(2) the shipper prevails in such court action; and

(3)(A) a decision resolving the dispute was not rendered through arbitration under this section within the period provided under subsection (b)(8) of this section or an extension of such period under such subsection; or

(B) the court proceeding is to enforce a decision rendered through arbitration under this section and is instituted after the period for performance under such decision has elapsed.

(e) ATTORNEY'S FEES TO CARRIERS.—In any court action to resolve a dispute between a shipper of household goods and a carrier providing transportation, or service subject to jurisdiction under subchapter I or III of chapter 135 concerning the transportation of household goods by such carrier, such carrier may be awarded reasonable attorney's fees by the court only if the shipper brought such action in bad faith—

(1) after resolution of such dispute through arbitration under this section; or

(2) after institution of an arbitration proceeding by the shipper to resolve such dispute under this section but before—

(A) the period provided under subsection (b)(8) for resolution of such dispute (including, if applicable, an extension of such period under such subsection) ends; and

(B) a decision resolving such dispute is rendered.

(f) LIMITATION OF APPLICABILITY TO COLLECT-ON-DELIVERY TRANSPORTATION.—The provisions of this section shall apply only in the case of collect-on-delivery transportation of household goods.

(g) REVIEW BY SECRETARY.—Not later than 18 months after January 1, 1996, the Secretary shall complete a review of the dispute settlement program established under this section. If, after notice and opportunity for comment, the Secretary determines that changes are necessary to such program to ensure the fair and equitable resolution of disputes under this section, the Secretary shall implement such changes and transmit a report to Congress on such changes.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 910; amended Pub. L. 104–287, §5(38), Oct. 11, 1996, 110 Stat. 3392.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11711 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

1996—Subsec. (g). Pub. L. 104–287 substituted ''January 1, 1996'' for ''the effective date of this section''.

§ 14709. Tariff reconciliation rules for motor carriers of property

Subject to review and approval by the Board, motor carriers subject to jurisdiction under subchapter I of chapter 135 (other than motor carriers providing transportation of household goods) and shippers may resolve, by mutual consent, overcharge and under-charge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed upon rates, rules, or classifications in compliance with section 13702 or, with respect to transportation provided before January 1, 1996, sections 10761 and 10762, as in effect on December 31, 1995. Resolution of such claims among the parties shall not subject any party to the penalties for departing from a tariff.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 912; amended Pub. L. 104–287, §5(39), Oct. 11, 1996, 110 Stat. 3392.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287

This amends 49:14709 by setting out the effective date of 49:14709 and for clarity and consistency.

REFERENCES IN TEXT

Sections 10761 and 10762, referred to in text, were omitted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11712 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

1996—Pub. L. 104–287 substituted ''January 1, 1996'' for ''the effective date of this section'' and ''December 31, 1995'' for ''the day before the effective date of this section''.

CHAPTER 149—CIVIL AND CRIMINAL PENALTIES

Sec.
14901. General civil penalties.
14902. Civil penalty for accepting rebates from carrier.
14903. Tariff violations.
14904. Additional rate violations.
14905. Penalties for violations of rules relating to loading and unloading motor vehicles.
14906. Evasion of regulation of carriers and brokers.
14907. Recordkeeping and reporting violations.
14908. Unlawful disclosure of information.
14909. Disobedience to subpoenas.
14910. General civil penalty when specific penalty not provided.
14911. Punishment of corporation for violations committed by certain individuals.
14912. Weight-bumping in household goods transportation.
14913. Conclusiveness of rates in certain prosecutions.
14914. Civil penalty procedures.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 13709 of this title.

§ 14901. General civil penalties

(a) REPORTING AND RECORDKEEPING.—A person required to make a report to the Secretary or the Board, answer a question, or make, prepare, or preserve a record under this part concerning transportation subject to jurisdiction under subchapter I or III of chapter 135 or transportation by a foreign carrier registered under section 13902, or an officer, agent, or employee of that person that—

(1) does not make the report;

(2) does not specifically, completely, and truthfully answer the question;

(3) does not make, prepare, or preserve the record in the form and manner prescribed;

(4) does not comply with section 13901; or

(5) does not comply with section 13902(c);

is liable to the United States for a civil penalty of not less than $500 for each violation and for each additional day the violation continues; except that, in the case of a person who is not registered under this part to provide transportation of passengers, or an officer, agent, or employee of such person, that does not comply with section 13901 with respect to providing transportation of passengers, the amount of the civil penalty shall not be less than $2,000 for each violation and for each additional day the violation continues.

(b) TRANSPORTATION OF HAZARDOUS WASTES.—A person subject to jurisdiction under subchapter I of chapter 135, or an officer, agent, or employee of that person, and who is required to comply with section 13901 of this title but does not so comply with respect to the transportation of hazardous wastes as defined by the Environmental Protection Agency pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Congress) shall be liable to the United States for a civil penalty not to exceed $20,000 for each violation.

(c) FACTORS TO CONSIDER IN DETERMINING AMOUNT.—In determining and negotiating the amount of a civil penalty under subsection (a) or (d) concerning transportation of household goods, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, whether the shipper has been adequately compensated before institution of the proceeding, and such other matters as fairness may require shall be taken into account.

(d) PROTECTION OF HOUSEHOLD GOODS SHIPPERS.—If a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 or a receiver or trustee of such carrier fails or refuses to comply with any regulation issued by the Secretary or the Board relating to protection of individual shippers, such carrier, receiver, or trustee is liable to the United States for a civil penalty of not less than $1,000 for each violation and for each additional day during which the violation continues.

(e) VIOLATION RELATING TO TRANSPORTATION OF HOUSEHOLD GOODS.—Any person that knowingly engages in or knowingly authorizes an agent or other person—

(1) to falsify documents used in the transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 which evidence the weight of a shipment; or

(2) to charge for accessorial services which are not performed or for which the carrier is not entitled to be compensated in any case in which such services are not reasonably necessary in the safe and adequate movement of the shipment;

is liable to the United States for a civil penalty of not less than $2,000 for each violation and of not less than $5,000 for each subsequent violation. Any State may bring a civil action in the United States district courts to compel a person to pay a civil penalty assessed under this subsection.

(f) VENUE.—Trial in a civil action under subsections (a) through (e) of this section is in the judicial district in which—

(1) the carrier or broker has its principal office;

(2) the carrier or broker was authorized to provide transportation or service under this part when the violation occurred;

(3) the violation occurred; or

(4) the offender is found.

Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

(g) BUSINESS ENTERTAINMENT EXPENSES.—

(1) IN GENERAL.—Any business entertainment expense incurred by a water carrier providing transportation subject to this part shall not constitute a violation of this part if that expense would not be unlawful if incurred by a person not subject to this part.

(2) COST OF SERVICE.—Any business entertainment expense subject to paragraph (1) that is paid or incurred by a water carrier providing transportation subject to this part shall not be taken into account in determining the cost of service or the rate base for purposes of section 13702.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 913.)

REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in subsec. (b), is title II of Pub. L. 89–272, as amended generally by Pub. L. 94–580, § 2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§ 6901 et seq.) of Title 42, The Public Health and Welfare. Section 3001 of the Act is classified to section 6921 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10751 and 11901 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13907, 14303 of this title.

§ 14902. Civil penalty for accepting rebates from carrier

A person—

(1) delivering property to a carrier providing transportation or service subject to jurisdiction under chapter 135 for transportation under this part or for whom that carrier will transport the property as consignor or consignee for that person from a State or territory or possession of the United States to another State or possession, territory, or to a foreign country; and

(2) knowingly accepting or receiving by any means a rebate or offset against the rate for transportation for, or service of, that property contained in a tariff required under section 13702;

is liable to the United States for a civil penalty in an amount equal to 3 times the amount of money that person accepted or received as a rebate or offset and 3 times the value of other consideration accepted or received as a rebate or offset. In a civil action under this section, all money or other consideration received by the person during a period of 6 years before an action is brought under this section may be included in determining the amount of the penalty, and if that total amount is included, the penalty shall be 3 times that total amount.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 915.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11902 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14913 of this title.

§ 14903. Tariff violations

(a) CIVIL PENALTY FOR UNDERCHARGING AND OVERCHARGING.—A person that offers, grants, gives, solicits, accepts, or receives by any means transportation or service provided for property by a carrier subject to jurisdiction under chapter 135 at a rate different than the rate in effect under section 13702 is liable to the United States for a civil penalty of not more than $100,000 for each violation.

(b) GENERAL CRIMINAL PENALTY.—A carrier providing transportation or service subject to jurisdiction under chapter 135 or an officer, director, receiver, trustee, lessee, agent, or employee of a corporation that is subject to jurisdiction under that chapter, that willfully does not observe its tariffs as required under section 13702, shall be fined under title 18 or imprisoned not more than 2 years, or both.

(c) ACTIONS OF AGENTS AND EMPLOYEES.—When acting in the scope of their employment, the actions and omissions of persons acting for or employed by a carrier or shipper that is subject to this section are considered to be the actions and omissions of that carrier or shipper as well as that person.

(d) VENUE.—Trial in a criminal action under this section is in the judicial district in which any part of the violation is committed or through which the transportation is conducted.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 915; amended Pub. L. 105–102, § 2(12), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:14903(a) to correct a grammatical error.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11903 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–102 inserted ''a'' before ''civil penalty of not more than''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14913 of this title.

§ 14904. Additional rate violations

(a) REBATES BY AGENTS.—A person, or an officer, employee, or agent of that person, that—

(1) offers, grants, gives, solicits, accepts, or receives a rebate for concession, in violation of a provision of this part related to motor carrier transportation subject to jurisdiction under subchapter I of chapter 135; or

(2) by any means assists or permits another person to get transportation that is subject to jurisdiction under that subchapter at less than the rate in effect for that transportation under section 13702,

is liable to the United States for a civil penalty of $200 for the first violation and $250 for a subsequent violation.

(b) UNDERCHARGING.—

(1) FREIGHT FORWARDER.—A freight forwarder providing service subject to jurisdiction under subchapter III of chapter 135, or an officer, agent, or employee of that freight forwarder, that assists a person in getting, or willingly permits a person to get, service pro-

vided under that subchapter at less than the rate in effect for that service under section 13702, is liable to the United States for a civil penalty of not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

(2) OTHERS.—A person that by any means gets, or attempts to get, service provided under subchapter III of chapter 135 at less than the rate in effect for that service under section 13702, is liable to the United States for a civil penalty of not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 915.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11904 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 14905. Penalties for violations of rules relating to loading and unloading motor vehicles

(a) CIVIL PENALTIES.—Whoever knowingly authorizes, consents to, or permits a violation of subsection (a) or (b) of section 14103 or who knowingly violates subsection (a) of such section is liable to the United States for a civil penalty of not more than $10,000 for each violation.

(b) CRIMINAL PENALTIES.—Whoever knowingly violates section 14103(b) of this title shall be fined under title 18 or imprisoned not more than 2 years, or both.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 916.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11902a of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14708 of this title.

§ 14906. Evasion of regulation of carriers and brokers

A person, or an officer, employee, or agent of that person, that by any means tries to evade regulation provided under this part for carriers or brokers is liable to the United States for a civil penalty of $200 for the first violation and at least $250 for a subsequent violation.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 916.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11906 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 14907. Recordkeeping and reporting violations

A person required to make a report to the Secretary or the Board, as applicable, answer a question, or make, prepare, or preserve a record under this part about transportation subject to jurisdiction under subchapter I or III of chapter 135, or an officer, agent, or employee of that person, that—

(1) does not make that report;

(2) does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary or Board, as applicable, requires the question to be answered;

(3) does not make, prepare, or preserve that record in the form and manner prescribed;

(4) falsifies, destroys, mutilates, or changes that report or record;

(5) files a false report or record;

(6) makes a false or incomplete entry in that record about a business related fact or transaction; or

(7) makes, prepares, or preserves a record in violation of an applicable regulation or order of the Secretary or Board;

is liable to the United States for a civil penalty of not more than $5,000.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 916.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11909 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14303 of this title.

§ 14908. Unlawful disclosure of information

(a) DISCLOSURE OF SHIPMENT AND ROUTING INFORMATION.—

(1) VIOLATIONS.—A carrier or broker providing transportation subject to jurisdiction under subchapter I, II, or III of chapter 135 or an officer, receiver, trustee, lessee, or employee of that carrier or broker, or another person authorized by that carrier or broker to receive information from that carrier or broker may not disclose to another person, except the shipper or consignee, and a person may not solicit, or receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier or broker for transportation provided under this part 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.

(2) PENALTY.—A person violating paragraph (1) of this subsection is liable to the United States for a civil penalty of not more than $2,000.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—This part does not prevent a carrier or broker providing transportation subject to jurisdiction under chapter 135 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; or

(3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 917.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11910 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 14909. Disobedience to subpoenas

Whoever does not obey a subpoena or requirement of the Secretary or the Board to appear and testify or produce records shall be fined under title 18 or imprisoned not more than 1 year, or both.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 917.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11913 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 14910. General civil penalty when specific penalty not provided

When another civil penalty is not provided under this chapter, a person that violates a provision of this part or a regulation or order prescribed under this part, or a condition of a registration under this part related to transportation that is subject to jurisdiction under subchapter I or III of chapter 135 or a condition of a registration of a foreign motor carrier or foreign motor private carrier under section 13902, is liable to the United States for a civil penalty of $500 for each violation. A separate violation occurs each day the violation continues.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 917.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11914 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 14911. Punishment of corporation for violations committed by certain individuals

An act or omission that would be a violation of this part if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a carrier providing transportation or service subject to jurisdiction under chapter 135 that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that carrier are considered to be the actions and omissions of that carrier as well as that individual.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 917.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11915 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 14912. Weight-bumping in household goods transportation

(a) WEIGHT-BUMPING DEFINED.—For the purposes of this section, ''weight-bumping'' means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods which is subject to jurisdiction under subchapter I or III of chapter 135.

(b) PENALTY.—Whoever has been found to have committed weight-bumping shall be fined under title 18 or imprisoned not more than 2 years, or both.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 918.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11917 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13907 of this title.

§ 14913. Conclusiveness of rates in certain prosecutions

When a carrier publishes or files a particular rate under section 13702 or participates in such a rate, the published or filed rate is conclusive proof against that carrier, its officers, and agents that it is the legal rate for that transportation or service in a proceeding begun under section 14902 or 14903. A departure, or offer to depart, from that published or filed rate is a violation of those sections.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 918.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11916 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 14914. Civil penalty procedures

(a) IN GENERAL.—After notice and an opportunity for a hearing, a person found by the Surface Transportation Board to have violated a provision of law that the Board carries out or a regulation prescribed under that law by the Board that is related to transportation which occurs under subchapter II of chapter 135 for which a civil penalty is provided, is liable to the United States for the civil penalty provided. The amount of the civil penalty shall be assessed by the Board by written notice. In determining the amount of the penalty, the Board 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) COMPROMISE.—The Board may compromise, modify, or remit, with or without consideration, a civil penalty until the assessment is referred to the Attorney General.

(c) COLLECTION.—If a person fails to pay an assessment of a civil penalty after it has become final, the Board may refer the matter to the Attorney General for collection in an appropriate district court of the United States.

(d) REFUNDS.—The Board 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 1 year from the date of payment; and

(2) the Board finds that the penalty was unlawfully, improperly, or excessively imposed.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 918.)

PART C—PIPELINE CARRIERS

AMENDMENTS

1996—Pub. L. 104–287, § 5(40), Oct. 11, 1996, 110 Stat. 3392, made technical amendment to part heading.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 28 section 2342.

CHAPTER 151—GENERAL PROVISIONS

Sec.
15101. Transportation policy.
15102. Definitions.
15103. Remedies as cumulative.

AMENDMENTS

1996—Pub. L. 104–287, § 5(41), Oct. 11, 1996, 110 Stat. 3392, struck out duplicative chapter heading.

§ 15101. Transportation policy

(a) IN GENERAL.—To ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States, including the national defense, it is the policy of the United States Government to oversee the modes of transportation and in overseeing those modes—

(1) to recognize and preserve the inherent advantage of each mode of transportation;

(2) to promote safe, adequate, economical, and efficient transportation;

(3) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

(4) to encourage the establishment and maintenance of reasonable rates for transportation without unreasonable discrimination or unfair or destructive competitive practices;

(5) to cooperate with each State and the officials of each State on transportation matters; and

(6) to encourage fair wages and working conditions in the transportation industry.

(b) ADMINISTRATION TO CARRY OUT POLICY.—This part shall be administered and enforced to carry out the policy of this section.

(Added Pub. L. 104–88, title I, § 106(a), Dec. 29, 1995, 109 Stat. 921; amended Pub. L. 105–102, § 2(13), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:15101(a) to correct a grammatical error.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10101 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–102 struck out ''of'' after ''Government to oversee''.

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

GAO REPORT

Section 106(b) of Pub. L. 104–88 provided that: ''Within 3 years after the effective date of this Act [Jan. 1, 1996, except as otherwise provided, see Effective Date note set out under section 701 of this title], the Comptroller General 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 regarding the impact of regulations under part C [of subtitle IV] of title 49, United States Code, on the competitiveness of pipelines and recommend whether to continue, revise, or sunset such regulations. Congress shall take into account the findings of this report when considering the Board's [Surface Transportation Board] reauthorization.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 15302 of this title.

§ 15102. Definitions

In this part—

(1) BOARD.—The term ''Board'' means the Surface Transportation Board.

(2) PIPELINE CARRIER.—The term ''pipeline carrier'' means a person providing pipeline transportation for compensation.

(3) RATE.—The term ''rate'' means a rate or charge for transportation.

(4) STATE.—The term ''State'' means a State of the United States and the District of Columbia.

(5) TRANSPORTATION.—The term ''transportation'' includes—

(A) property, facilities, instrumentalities, or equipment of any kind related to the movement of property, regardless of ownership or an agreement concerning use; and

(B) services related to that movement, including receipt, delivery, transfer in transit, storage, handling, and interchange of property.

(6) UNITED STATES.—The term ''United States'' means the States of the United States and the District of Columbia.

(Added Pub. L. 104–88, title I, § 106(a), Dec. 29, 1995, 109 Stat. 921.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10102 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 15103. Remedies as cumulative

Except as otherwise provided in this part, the remedies provided under this part are in addition to remedies existing under another law or common law.

(Added Pub. L. 104–88, title I, § 106(a), Dec. 29, 1995, 109 Stat. 922.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10103 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

CHAPTER 153—JURISDICTION

Sec.
15301. General pipeline jurisdiction.
15302. Authority to exempt pipeline carrier transportation.

Sec.

AMENDMENTS

1996—Pub. L. 104–287, §5(42), Oct. 11, 1996, 110 Stat. 3392, struck out duplicative chapter heading.

§ 15301. General pipeline jurisdiction

(a) IN GENERAL.—The Board has jurisdiction over transportation by pipeline, or by pipeline and railroad or water, when transporting a commodity other than water, gas, or oil. Jurisdiction under this subsection applies only to transportation in the United States between a place in—

(1) a State and a place in another State;

(2) the District of Columbia and another place in the District of Columbia;

(3) a State and a place in a territory or possession of the United States;

(4) a territory or possession of the United States and a place in another such territory or possession;

(5) a territory or possession of the United States and another place in the same territory or possession;

(6) the United States and another place in the United States through a foreign country; or

(7) the United States and a place in a foreign country.

(b) NO JURISDICTION OVER INTRASTATE TRANSPORTATION.—The Board does not have jurisdiction under subsection (a) over the transportation of property, or the receipt, delivery, storage, or handling of property, entirely in a State (other than the District of Columbia) and not transported between a place in the United States and a place in a foreign country except as otherwise provided in this part.

(c) PROTECTION OF STATES POWERS.—This part does not affect the power of a State, in exercising its police power, to require reasonable intrastate transportation by carriers providing transportation subject to the jurisdiction of the Board under this chapter unless the State requirement is inconsistent with an order of the Board issued under this part or is prohibited under this part.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 922.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10501 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

§ 15302. Authority to exempt pipeline carrier transportation

(a) IN GENERAL—In a matter related to a pipeline carrier providing transportation subject to jurisdiction under this chapter, the Board shall exempt a person, class of persons, or a transaction or service when the Board finds that the application, in whole or in part, of a provision of this part—

(1) is not necessary to carry out the transportation policy of section 15101; and

(2) either (A) the transaction or service is of limited scope, or (B) the application, in whole or in part, of the provision is not needed to protect shippers from the abuse of market power.

(b) INITIATION OF PROCEEDING.—The Board may, where appropriate, begin a proceeding under this section on its own initiative or an interested party.

(c) PERIOD OF EXEMPTION.—The Board may specify the period of time during which an exemption granted under this section is effective.

(d) REVOCATION.—The Board may revoke an exemption, to the extent it specifies, when it finds that application, in whole or in part, of a provision of this part to the person, class, or transportation is necessary to carry out the transportation policy of section 15101.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 923.)

CHAPTER 155—RATES

Sec.

15501. Standards for pipeline rates, classifications, through routes, rules, and practices.
15502. Authority for pipeline carriers to establish rates, classifications, rules, and practices.
15503. Authority and criteria: rates, classifications, rules, and practices prescribed by Board.
15504. Government traffic.
15505. Prohibition against discrimination by pipeline carriers.
15506. Facilities for interchange of traffic.

§ 15501. Standards for pipeline rates, classifications, through routes, rules, and practices

(a) REASONABLENESS.—A rate, classification, rule, or practice related to transportation or service provided by a pipeline carrier subject to this part must be reasonable. A through route established by such a carrier must be reasonable.

(b) NONDISCRIMINATION.—A pipeline carrier providing transportation subject to this part may not discriminate in its rates against a connecting line of any other pipeline, rail, or water carrier providing transportation subject to this subtitle or unreasonably discriminate against that line in the distribution of traffic that is not routed specifically by the shipper.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 923.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10701 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

§ 15502. Authority for pipeline carriers to establish rates, classifications, rules, and practices

A pipeline carrier providing transportation or service subject to this part shall establish—

(1) rates and classifications for transportation and service it may provide under this part; and

(2) rules and practices on matters related to that transportation or service.

(Added Pub. L. 104–88, title I, § 106(a), Dec. 29, 1995, 109 Stat. 923.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10702 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 15503. Authority and criteria: rates, classifications, rules, and practices prescribed by Board

(a) IN GENERAL.—When the Board, after a full hearing, decides that a rate charged or collected by a pipeline carrier for transportation subject to this part, or that a classification, rule, or practice of that carrier, does or will violate this part, the Board may prescribe the rate, classification, rule, or practice to be followed. In prescribing the rate, classification, rule, or practice, the Board may utilize rate reasonableness procedures that provide an effective simulation of a market-based price for a stand alone pipeline. The Board may order the carrier to stop the violation. When a rate, classification, rule, or practice is prescribed under this subsection, the affected carrier may not publish, charge, or collect a different rate and shall adopt the classification and observe the rule or practice prescribed by the Board.

(b) FACTORS TO CONSIDER.—When prescribing a rate, classification, rule, or practice for transportation or service by a pipeline carrier, the Board shall consider, among other factors—

(1) the effect of the prescribed rate, classification, rule, or practice on the movement of traffic by that carrier;

(2) the need for revenues that are sufficient, under honest, economical, and efficient management, to let the carrier provide that transportation or service; and

(3) the availability of other economic transportation alternatives.

(c) PROCEEDING.—The Board may begin a proceeding under this section on complaint. A complaint under this section must contain a full statement of the facts and the reasons for the complaint and must be made under oath.

(Added Pub. L. 104–88, title I, § 106(a), Dec. 29, 1995, 109 Stat. 924.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10704 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 15504. Government traffic

A pipeline carrier providing transportation or service for the United States Government may transport property for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply when transportation for the United States Government can be obtained from a carrier lawfully operating in the area where the transportation would be provided.

(Added Pub. L. 104–88, title I, § 106(a), Dec. 29, 1995, 109 Stat. 924.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10721 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 section 3726.

§ 15505. Prohibition against discrimination by pipeline carriers

A pipeline carrier providing transportation or service subject to this part may not subject a person, place, port, or type of traffic to unreasonable discrimination.

(Added Pub. L. 104–88, title I, § 106(a), Dec. 29, 1995, 109 Stat. 924.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10741 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 15506. Facilities for interchange of traffic

A pipeline carrier providing transportation subject to this part shall provide reasonable, proper, and equal facilities that are within its power to provide for the interchange of traffic between, and for the receiving, forwarding, and delivering of property to and from, its respective line and a connecting line of a pipeline, rail, or water carrier under this subtitle.

(Added Pub. L. 104–88, title I, § 106(a), Dec. 29, 1995, 109 Stat. 924.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10742 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

CHAPTER 157—OPERATIONS OF CARRIERS

SUBCHAPTER A—GENERAL REQUIREMENTS

Sec.
15701. Providing transportation and service.

SUBCHAPTER B—OPERATIONS OF CARRIERS

15721. Definitions.
15722. Records: form; inspection; preservation.
15723. Reports by carriers, lessors, and associations.

AMENDMENTS

1996—Pub. L. 104–287, § 5(43)(A), Oct. 11, 1996, 110 Stat. 3392, struck out duplicative chapter heading and made technical amendments to items for subchapters A and B.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 16101, 16102 of this title.

SUBCHAPTER A—GENERAL REQUIREMENTS

AMENDMENTS

1996—Pub. L. 104–287, § 5(43)(B)(i), Oct. 11, 1996, 110 Stat. 3393, made technical amendment to subchapter heading.

§ 15701. Providing transportation and service

(a) SERVICE ON REASONABLE REQUEST.—A pipeline carrier providing transportation or service under this part shall provide the transportation or service on reasonable request.

(b) RATES AND OTHER TERMS.—A pipeline carrier shall also provide to any person, on request, the carrier's rates and other service terms. The response by a pipeline carrier to a request for the carrier's rates and other service terms shall be—

(1) in writing and forwarded to the requesting person promptly after receipt of the request; or

(2) promptly made available in electronic form.

(c) LIMITATION ON RATE INCREASES AND CHANGES TO SERVICE TERMS.—A pipeline carrier may not increase any common carrier rates or change any common carrier service terms unless 20 days have expired after written or electronic notice is provided to any person who, within the previous 12 months—

(1) has requested such rates or terms under subsection (b); or

(2) has made arrangements with the carrier for a shipment that would be subject to such increased rates or changed terms.

(d) PROVISION OF SERVICE.—A pipeline carrier shall provide transportation or service in accordance with the rates and service terms, and any changes thereto, as published or otherwise made available under subsection (b) or (c).

(e) REGULATIONS.—The Board shall, by regulation, establish rules to implement this section. The regulations shall provide for immediate disclosure and dissemination of rates and service terms, including classifications, rules, and practices, and their effective dates. The regulations may modify the 20-day period specified in subsection (c). Final regulations shall be adopted by the Board not later than 180 days after January 1, 1996.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 925; amended Pub. L. 104–287, §5(44), Oct. 11, 1996, 110 Stat. 3393.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11101 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–287 substituted ''January 1, 1996'' for ''the effective date of this section''.

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

SUBCHAPTER B—OPERATIONS OF CARRIERS

AMENDMENTS

1996—Pub. L. 104–287, §5(43)(B)(ii), Oct. 11, 1996, 110 Stat. 3393, made technical amendment to subchapter heading.

§ 15721. Definitions

In this subchapter, the following definitions apply:

(1) CARRIER, LESSOR.—The terms ''carrier'' and ''lessor'' include a receiver or trustee of a pipeline carrier and lessor, respectively.

(2) LESSOR.—The term ''lessor'' means a person owning a pipeline that is leased to and operated by a carrier providing transportation under this part.

(3) ASSOCIATION.—The term ''association'' means an organization maintained by or in the interest of a group of pipeline carriers that performs a service, or engages in activities, related to transportation under this part.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 925.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11141 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 15722. Records: form; inspection; preservation

(a) FORM OF RECORDS.—The Board may prescribe the form of records required to be prepared or compiled under this subchapter by pipeline carriers and lessors, including records related to movement of traffic and receipts and expenditures of money.

(b) INSPECTION.—The Board, or an employee designated by the Board, may on demand and display of proper credentials—

(1) inspect and examine the lands, buildings, and equipment of a pipeline carrier or lessor; and

(2) inspect and copy any record of—

(A) a pipeline carrier, lessor, or association; and

(B) a person controlling, controlled by, or under common control with a pipeline carrier if the Board considers inspection relevant to that person's relation to, or transaction with, that carrier.

(c) PRESERVATION PERIOD.—The Board may prescribe the time period during which operating, accounting, and financial records must be preserved by pipeline carriers and lessors.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 926.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11144 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 16101, 16103 of this title.

§ 15723. Reports by carriers, lessors, and associations

(a) FILING OF REPORTS.—The Board may require pipeline carriers, lessors, and associations, or classes of them as the Board may prescribe, to file annual, periodic, and special reports with the Board containing answers to questions asked by it.

(b) UNDER OATH.—Any report under this section shall be made under oath.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 926.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11145 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

CHAPTER 159—ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES

Sec.
15901. General authority.
15902. Enforcement by the Board.
15903. Enforcement by the Attorney General.
15904. Rights and remedies of persons injured by pipeline carriers.
15905. Limitation on actions by and against pipeline carriers.
15906. Liability of pipeline carriers under receipts and bills of lading.

AMENDMENTS

1997—Pub. L. 105–102, § 3(d)(1)(A), Nov. 20, 1997, 111 Stat. 2215, which directed technical correction of directory language of Pub. L. 104–287, § 5(45)(A), by substituting ''ENFORCEMENT:'' for ''ENFORCEMENT,'', could not be executed because ''ENFORCEMENT,'' does not appear in section 5(45)(A).

Pub. L. 105–102, § 2(14), Nov. 20, 1997, 111 Stat. 2205, substituted ''pipeline'' for ''certain'' in item 15904.

1996—Pub. L. 104–287, § 5(45)(B), Oct. 11, 1996, 110 Stat. 3393, struck out item 15907 ''Liability when property is delivered in violation of routing instructions''.

Pub. L. 104–287, § 5(45)(A), Oct. 11, 1996, 110 Stat. 3393, which directed amendment of chapter analysis by striking ''CHAPTER 159—ENFORCEMENT; INVESTIGATIONS, RIGHTS, AND REMEDIES'', was executed by striking the duplicative chapter heading which read ''CHAPTER 159—ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES'' to reflect the probable intent of Congress.

§ 15901. General authority

(a) INVESTIGATION; COMPLIANCE ORDER.—Except as otherwise provided in this part, the Board may begin an investigation under this part only on complaint. If the Board finds that a pipeline carrier is violating this part, the Board shall take appropriate action to compel compliance with this part. The Board shall provide the carrier notice of the investigation and an opportunity for a proceeding.

(b) COMPLAINT.—A person, including a governmental authority, may file with the Board a complaint about a violation of this part by a pipeline carrier providing transportation or service subject to this part. The complaint must state the facts that are the subject of the violation. The Board may dismiss a complaint it determines does not state reasonable grounds for investigation and action. However, the Board may not dismiss a complaint made against a pipeline carrier providing transportation subject to this part because of the absence of direct damage to the complainant.

(c) AUTOMATIC DISMISSAL.—A formal investigative proceeding begun by the Board under subsection (a) is dismissed automatically unless it is concluded by the Board with administrative finality by the end of the 3d year after the date on which it was begun.

(Added Pub. L. 104–88, title I, § 106(a), Dec. 29, 1995, 109 Stat. 926.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11701 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 15904 of this title.

§ 15902. Enforcement by the Board

The Board may bring a civil action to enforce an order of the Board, except a civil action to enforce an order for the payment of money, when it is violated by a pipeline carrier providing transportation subject to this part.

(Added Pub. L. 104–88, title I, § 106(a), Dec. 29, 1995, 109 Stat. 927.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11702 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 15903. Enforcement by the Attorney General

(a) ON BEHALF OF BOARD.—The Attorney General may, and on request of the Board shall, bring court proceedings to enforce this part or a regulation or order of the Board and to prosecute a person violating this part or a regulation or order of the Board issued under this part.

(b) ON BEHALF OF OTHERS.—The United States Government may bring a civil action on behalf of a person to compel a pipeline carrier providing transportation or service subject to this part to provide that transportation or service to that person in compliance with this part at the same rate charged, or on conditions as favorable as those given by the carrier, for like traffic under similar conditions to another person.

(Added Pub. L. 104–88, title I, § 106(a), Dec. 29, 1995, 109 Stat. 927.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11703 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 15904. Rights and remedies of persons injured by pipeline carriers

(a) ENFORCEMENT OF ORDERS.—A person injured because a pipeline carrier providing transportation or service subject to this part does not obey an order of the Board, except an order for the payment of money, may bring a civil action to enforce that order under this subsection.

(b) LIABILITY OF CARRIER.—

(1) EXCESSIVE CHARGES.—A pipeline carrier providing transportation subject to this part is liable to a person for amounts charged that exceed the applicable rate for the transportation.

(2) DAMAGES.—A pipeline carrier providing transportation subject to this part is liable for damages sustained by a person as a result of an act or omission of that carrier in violation of this part.

(c) COMPLAINTS.—

(1) FILING.—A person may file a complaint with the Board under 15901(b)[1] or bring a civil action under subsection (b) to enforce liability against a pipeline carrier providing transportation subject to this part.

(2) PAYMENT DEADLINE.—When the Board makes an award under subsection (b), the

[1] So in original. Probably should be ''section 15901(b)''.

Board shall order the carrier to pay the amount awarded by a specific date. The Board may order a carrier providing transportation subject to this part to pay damages only when the proceeding is on complaint. The person for whose benefit an order of the Board requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the carrier does not pay the amount awarded by the date payment was ordered to be made.

(d) CIVIL ACTIONS.—

(1) COMPLAINT.—When a person begins a civil action under subsection (b) to enforce an order of the Board requiring the payment of damages by a pipeline carrier providing transportation subject to this part, the text of the order of the Board must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Board are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district in which the plaintiff resides or in which the principal operating office of the carrier is located. In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

(2) ATTORNEY'S FEES.—The district court shall award a reasonable attorney's fee as a part of the damages for which a carrier is found liable under this subsection. The district court shall tax and collect that fee as a part of the costs of the action.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 927; amended Pub. L. 105–102, §2(15), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:15904(c)(1) to correct an erroneous cross-reference.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11705 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

1997—Subsec. (c)(1). Pub. L. 105–102 substituted ''15901(b)'' for ''section 11501(b)''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 15905 of this title.

§ 15905. Limitation on actions by and against pipeline carriers

(a) IN GENERAL.—A pipeline carrier providing transportation or service subject to this part must begin a civil action to recover charges for transportation or service provided by the carrier within 3 years after the claim accrues.

(b) OVERCHARGES.—A person must begin a civil action to recover overcharges under section 15904(b)(1) within 3 years after the claim accrues. If an election to file a complaint with the Board is made under section 15904(c)(1), the complaint must be filed within 3 years after the claim accrues.

(c) DAMAGES.—A person must file a complaint with the Board to recover damages under section 15904(b)(2) within 2 years after the claim accrues.

(d) EXTENSIONS.—The limitation periods under subsection (b) are extended for 6 months from the time written notice is given to the claimant by the carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the carrier within those limitation periods. The limitation periods under subsection (b) and the 2-year period under subsection (c) are extended for 90 days from the time the carrier begins a civil action under subsection (a) to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

(e) PAYMENT.—A person must begin a civil action to enforce an order of the Board against a carrier for the payment of money within one year after the date the order required the money to be paid.

(f) GOVERNMENT TRANSPORTATION.—This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the date of—

(1) payment of the rate for the transportation or service involved,

(2) subsequent refund for overpayment of that rate, or

(3) deduction made under section 3726 of title 31,

whichever is later.

(g) ACCRUAL DATE.—A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the carrier.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 928.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11706 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 15906. Liability of pipeline carriers under receipts and bills of lading

(a) GENERAL LIABILITY.—A pipeline carrier providing transportation or service subject to this part shall issue a receipt or bill of lading for property it receives for transportation under this part. That carrier and any other carrier that delivers the property and is providing transportation or service subject to jurisdiction under this part are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this subsection is for the actual loss or injury to the property caused by the carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported

under a through bill of lading. Failure to issue a receipt or bill of lading does not affect the liability of a carrier.

(b) APPORTIONMENT.—The carrier issuing the receipt or bill of lading under subsection (a) or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

(c) CIVIL ACTIONS.—A civil action under this section may be brought against a delivering carrier in a district court of the United States or in a State court. Trial, if the action is brought in a district court of the United States is in a judicial district, and if in a State court, is in a State, through which the defendant carrier operates a line or route.

(d) MINIMUM PERIOD FOR FILING CLAIMS.—A pipeline carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice. For the purposes of this subsection—

(1) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

(2) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reasons for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 929.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11707 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

CHAPTER 161—CIVIL AND CRIMINAL PENALTIES

Sec.
16101. General civil penalties.
16102. Recordkeeping and reporting violations.
16103. Unlawful disclosure of information.
16104. Disobedience to subpenas.
16105. General criminal penalty when specific penalty not provided.
16106. Punishment of corporation for violations committed by certain individuals.

AMENDMENTS

1996—Pub. L. 104–287, §5(46), Oct. 11, 1996, 110 Stat. 3393, struck out duplicative chapter heading.

§ 16101. General civil penalties

(a) GENERAL.—Except as otherwise provided in this section, a pipeline carrier providing transportation subject to this part, an officer or agent of that carrier, or a receiver, trustee, lessee, or agent of one of them, knowingly violating this part or an order of the Board under this part is liable to the United States for a civil penalty of not more than $5,000 for each violation. Liability under this subsection is incurred for each distinct violation. A separate violation occurs for each day the violation continues.

(b) RECORDKEEPING AND REPORTING.—

(1) RECORDS.—A person required under chapter 157 to make, prepare, preserve, or submit to the Board a record concerning transportation subject to this part that does not make, prepare, preserve, or submit that record as required under that chapter, is liable to the United States for a civil penalty of $500 for each violation.

(2) INSPECTION.—A carrier providing transportation subject to this part, and a lessor, receiver, or trustee of that carrier, violating section 15722, is liable to the United States for a civil penalty of $100 for each violation.

(3) REPORTS.—A carrier providing transportation subject to the jurisdiction of the Board under this part, a lessor, receiver, or trustee of that carrier, and an officer, agent, or employee of one of them, required to make a report to the Board or answer a question that does not make the report or does not specifically, completely, and truthfully answer the question, is liable to the United States for a civil penalty of $100 for each violation.

(4) CONTINUED VIOLATION.—A separate violation occurs for each day violation under this subsection continues.

(c) VENUE.—Trial in a civil action under this section is in the judicial district in which the carrier has its principal operating office.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 930; amended Pub. L. 105–102, §2(16), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:16101 to redesignate subsection (d) as (c) because no subsection (c) was enacted.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11901 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

1997—Subsecs. (c), (d). Pub. L. 105–102 redesignated subsec. (d) as (c).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

§ 16102. Recordkeeping and reporting violations

A person required to make a report to the Board, or make, prepare, or preserve a record, under chapter 157 about transportation subject to this part 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 Board, or

(5) files a false report or record with the Board,

shall be fined under title 18 or imprisoned not more than 2 years, or both.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 930.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11909 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 16103. Unlawful disclosure of information

(a) GENERAL PROHIBITION.—A pipeline carrier providing transportation subject to this part, or an officer, agent, or employee of that carrier, or another person authorized to receive information from that carrier, that knowingly discloses to another person, except the shipper or consignee, or a person who solicits or knowingly receives information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier for transportation provided under this part 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, is liable to the United States for a civil penalty of not more than $1,000.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—This part does not prevent a pipeline carrier providing transportation under this part 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; or

(3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

(c) BOARD EMPLOYEE.—An employee of the Board delegated to make an inspection or examination under section 15722 who knowingly discloses information acquired during that inspection or examination, except as directed by the Board, a court, or a judge of that court, shall be fined under title 18 or imprisoned for not more than 6 months, or both.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 931.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11910 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 16104. Disobedience to subpenas

Whoever does not obey a subpena or requirement of the Board to appear and testify or produce records shall be fined under title 18 or imprisoned not more than 1 year, or both.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 931.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11913 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 16105. General criminal penalty when specific penalty not provided

When another criminal penalty is not provided under this chapter, a pipeline carrier providing transportation subject to this part, and when that carrier is a corporation, a director or officer of the corporation, or a receiver, trustee, lessee, or person acting for or employed by the corporation that, alone or with another person, willfully violates this part or an order prescribed under this part, shall be fined under title 18 or imprisoned not more than 2 years, or both. A separate violation occurs each day a violation of this part continues.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 931.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11914 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

§ 16106. Punishment of corporation for violations committed by certain individuals

An act or omission that would be a violation of this subtitle if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a pipeline carrier providing transportation or service subject to this part that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that carrier are considered to be the actions and omissions of that carrier as well as that individual.

(Added Pub. L. 104–88, title I, §106(a), Dec. 29, 1995, 109 Stat. 931.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11915 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

SUBTITLE V—RAIL PROGRAMS

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281. Law Enforcement 28101
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AMENDMENTS

1997—Pub. L. 105–134, title I, § 106(a), Dec. 2, 1997, 111 Stat. 2573, struck out item for chapter 245 ''Amtrak Commuter''.

1996—Pub. L. 104–287, § 5(56)(B), Oct. 11, 1996, 110 Stat. 3394, added item for chapter 283.

1994—Pub. L. 103–440, title I, § 103(b)(1), Nov. 2, 1994, 108 Stat. 4618, added part D and item for chapter 261, struck out former part D ''MISCELLANEOUS'' and former item for chapter 261 ''Law Enforcement . . . 26101'', and added part E and item for chapter 281.

PART A—SAFETY

CHAPTER 201—GENERAL

SUBCHAPTER I—GENERAL

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20103. General authority.
20104. Emergency authority.
20105. State participation.
20106. National uniformity of regulation.
20107. Inspection and investigation.
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SUBCHAPTER II—PARTICULAR ASPECTS OF SAFETY

20131. Restricted access to rolling equipment.
20132. Visible markers for rear cars.
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20134. Grade crossings and railroad rights of way.
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20138. Tampering with safety and operational monitoring devices.
20139. Maintenance-of-way operations on railroad bridges.
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20141. Power brake safety.
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20145. Report on bridge displacement detection systems.
20146. Institute for Railroad Safety.
20147. Warning of civil liability.
20148. Railroad car visibility.
20149. Coordination with the Department of Labor.
20150. Positive train control system progress report.
20151. Railroad trespassing and vandalism prevention strategy.
20152. Emergency notification of grade crossing problems.
Sec.
20153. Audible warnings at highway-rail grade crossings.

AMENDMENTS

1995—Pub. L. 104–66, title I, § 1121(g)(2), Dec. 21, 1995, 109 Stat. 724, struck out item 20116 ''Biennial report''.

1994—Pub. L. 103–440, title II, §§ 206(b), 207(b), 210(b), 211(b), 212(b), 213(b), 214(b), 215(b), 219(b), title III, §§ 301(b), 302(b), Nov. 2, 1994, 108 Stat. 4621–4624, 4626, 4628, substituted ''Biennial'' for ''Annual'' in item 20116 and ''cars'' for ''equipment'' in item 20133 and added items 20145 to 20153.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 21301, 21302, 21311 of this title; title 45 section 54a.

SUBCHAPTER I—GENERAL

§ 20101. Purpose

The purpose of this chapter is to promote safety in every area of railroad operations and reduce railroad-related accidents and incidents.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 863.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20101	45:421.	Oct. 16, 1970, Pub. L. 91–458, § 101, 84 Stat. 971.

The words ''The Congress declares that'' are omitted as surplus. The words ''accidents and incidents'' are substituted for ''accidents'' for consistency with the source provisions restated in section 20105(b)(1)(B) of the revised title. The words ''and to reduce deaths and injuries to persons and to reduce damage to property caused by accidents involving any carrier of hazardous materials'' are omitted as obsolete because they applied to 49 App.:1761 and 1762, that were repealed by section 113(g) of the Hazardous Materials Transportation Act (Public Law 93–633, 88 Stat. 2163).

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–134, § 1(a), Dec. 2, 1997, 111 Stat. 2570, provided that: ''This Act [enacting section 28103 of this title, amending sections 24101, 24102, 24104, 24301 to 24307, 24309, 24312, 24315, 24701, 24706, 24902, and 24904 of this title, section 8G of the Inspector General Act of 1978, Pub. L. 95–452, set out in the Appendix to Title 5, Government Organization and Employees, and section 9101 of Title 31, Money and Finance, repealing sections 24310, 24314, 24501 to 24506, 24702 to 24705, 24707, 24708, and 24903 of this title, and section 1111 of Title 45, Railroads, and enacting provisions set out as notes under this section and sections 24101, 24104, 24301, 24304, 24305, 24307, 24312, 24315, 24501, and 24706 of this title, section 8G of the Appendix to Title 5, and section 172 of Title 26, Internal Revenue Code] may be cited as the 'Amtrak Reform and Accountability Act of 1997'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–440, title I, § 101, Nov. 2, 1994, 108 Stat. 4615, provided that: ''This title [enacting sections 26101 to 26105 of this title, renumbering former sections 26101 and 26102 of this title as 28101 and 28102 of this title, respectively, and enacting provisions set out as notes under section 26101 of this title and section 838 of Title 45, Railroads] may be cited as the 'Swift Rail Development Act of 1994'.''

Pub. L. 103–440, title II, § 201, Nov. 2, 1994, 108 Stat. 4619, provided that: ''This title [enacting sections 20145 to 20151 and 21108 of this title, amending sections 103, 20103, 20111, 20116, 20117, 20133, 20142, and 21303 of this title, and enacting provisions set out as a note under section 11504 of this title] may be cited as the 'Federal Railroad Safety Authorization Act of 1994'.''

§ 20102. Definitions

In this part—

(1) ''railroad''—

(A) means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways, including—

(i) commuter or other short-haul railroad passenger service in a metropolitan or suburban area and commuter railroad service that was operated by the Consolidated Rail Corporation on January 1, 1979; and

(ii) high speed ground transportation systems that connect metropolitan areas, without regard to whether those systems use new technologies not associated with traditional railroads; but

(B) does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

(2) ''railroad carrier'' means a person providing railroad transportation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 863.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20102(1)	45:16.	Apr. 14, 1910, ch. 160, §1, 36 Stat. 298; restated June 22, 1988, Pub. L. 100–342, §13(3)(E), 102 Stat. 632.
	45:22.	Feb. 17, 1911, ch. 103, §1, 36 Stat. 913; June 7, 1924, ch. 355, §1, 43 Stat. 659; restated June 22, 1988, Pub. L. 100–342, §14(1), 102 Stat. 632.
	45:38 (last sentence).	May 6, 1910, ch. 208, 36 Stat. 350, §1 (last sentence); added June 22, 1988, Pub. L. 100–342, §15(1)(C), 102 Stat. 633.
	45:61(a).	Mar. 4, 1907, ch. 2939, §1(a), 34 Stat. 1415; Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 463; restated Nov. 2, 1978, Pub. L. 95–574, §5, 92 Stat. 2461; June 22, 1988, Pub. L. 100–342, §16(1)(A), 102 Stat. 634.
	45:61(b)(1).	Mar. 4, 1907, ch. 2939, §1(b)(1), 34 Stat. 1415; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 463; June 22, 1988, Pub. L. 100–342, §16(1)(B), 102 Stat. 634.
	45:431(e).	Oct. 16, 1970, Pub. L. 91–458, §202(e), 84 Stat. 971; restated June 22, 1988, Pub. L. 100–342, §7(a), 102 Stat. 628.
	49:App.:26(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(a); added Feb. 28, 1920, ch. 91, §441, 41 Stat. 498; Aug. 26, 1937, ch. 818, 50 Stat. 835; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919; restated June 22, 1988, Pub. L. 100–342, §17(1), 102 Stat. 635.
20102(2)	(no source).	

Clause (1) is substituted for the source provisions to avoid repeating the definition of ''railroad'' in each chapter in this part.

Clause (2) is added to distinguish between railroad transportation and the entity providing railroad transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 24301 of this title; title 42 section 12181.

§ 20103. General authority

(a) REGULATIONS AND ORDERS.—The Secretary of Transportation, as necessary, shall prescribe regulations and issue orders for every area of railroad safety supplementing laws and regulations in effect on October 16, 1970.

(b) REGULATIONS OF PRACTICE FOR PROCEEDINGS.—The Secretary shall prescribe regulations of practice applicable to each proceeding under this chapter. The regulations shall reflect the varying nature of the proceedings and include time limits for disposition of the proceedings. The time limit for disposition of a proceeding may not be more than 12 months after the date it begins.

(c) CONSIDERATION OF INFORMATION AND STANDARDS.—In prescribing regulations and issuing orders under this section, the Secretary shall consider existing relevant safety information and standards.

(d) WAIVERS.—The Secretary may waive compliance with any part of a regulation prescribed or order issued under this chapter if the waiver is in the public interest and consistent with railroad safety. The Secretary shall make public the reasons for granting the waiver.

(e) HEARINGS.—The Secretary shall conduct a hearing as provided by section 553 of title 5 when prescribing a regulation or issuing an order under this chapter, including a regulation or order establishing, amending, or waiving compliance with a railroad safety regulation prescribed or order issued under this chapter. An opportunity for an oral presentation shall be provided.

(f) TOURIST RAILROAD CARRIERS.—In prescribing regulations that pertain to railroad safety that affect tourist, historic, scenic, or excursion railroad carriers, the Secretary of Transportation shall take into consideration any financial, operational, or other factors that may be unique to such railroad carriers. The Secretary shall submit a report to Congress not later than September 30, 1995, on actions taken under this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 863; Pub. L. 103–440, title II, §217, Nov. 2, 1994, 108 Stat. 4624.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20103(a)	45:431(a) (1st sentence cl. (1)).	Oct. 16, 1970, Pub. L. 91–458, §202(a) (1st sentence cl. (1)), (b), (c), 84 Stat. 971.
20103(b)	45:431(d) (21st–last words).	Oct. 16, 1970, Pub. L. 91–458, §202(d), 84 Stat. 971; restated July 8, 1976, Pub. L. 94–348, §5(a), 90 Stat. 819.
20103(c)	45:431(d) (1st–20th words).	
20103(d)	45:431(c).	
20103(e)	45:431(b).	

In this part, the word ''rule'' is omitted as being synonymous with ''regulation''. The word ''standard'' is omitted as being included in ''regulation''.

In subsection (a), the words ''(hereafter in this subchapter referred to as the 'Secretary')'' in 45:431(a) (1st sentence cl. (1)) are omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

In subsection (b), the words ''within 180 days after July 8, 1976'' are omitted as expired. The word ''pre-

scribe'' is substituted for ''take such action as may be necessary to develop and publish'' for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

In subsection (d), the words ''after hearing in accordance with subsection (b) of this section'' are omitted as surplus because of the language restated in subsection (e) of this section.

AMENDMENTS

1994—Subsec. (f). Pub. L. 103–440 added subsec. (f).

REGULATIONS

Section 4(t) of Pub. L. 103–272 provided that:

''(1) Not later than March 3, 1995, the Secretary of Transportation shall complete a regulatory proceeding to consider prescribing regulations to improve the safety and working conditions of locomotive cabs. The proceeding shall assess—

''(A) the adequacy of Locomotive Crashworthiness Requirements Standard S–580, or any successor standard, adopted by the Association of American Railroads in 1989 in improving the safety of locomotive cabs; and

''(B) the extent to which environmental, sanitary, and other working conditions in locomotive cabs affect productivity, health, and the safe operation of locomotives.

''(2) SUPPORTING RESEARCH AND ANALYSIS.—In support of the proceeding required under paragraph (1) of this subsection, the Secretary shall conduct research and analysis, including computer modeling and full-scale crash testing, as appropriate, to consider—

''(A) the costs and benefits associated with equipping locomotives with—

''(i) braced collision posts;

''(ii) rollover protection devices;

''(iii) deflection plates;

''(iv) shatterproof windows;

''(v) readily accessible crash refuges;

''(vi) uniform sill heights;

''(vii) anticlimbers, or other equipment designed to prevent overrides resulting from head-on locomotive collisions;

''(viii) equipment to deter post-collision entry of flammable liquids into locomotive cabs;

''(ix) any other devices intended to provide crash protection for occupants of locomotive cabs; and

''(x) functioning and regularly maintained sanitary facilities; and

''(B) the effects on train crews of the presence of asbestos in locomotive components.

''(3) REPORT.—If, on the basis of the proceeding required under paragraph (1) of this subsection, the Secretary decides not to prescribe regulations, the Secretary shall report to Congress on the reasons for that decision.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20104, 20135 of this title; title 45 section 1207.

§ 20104. Emergency authority

(a) ORDERING RESTRICTIONS AND PROHIBITIONS.—(1) If, through testing, inspection, investigation, or research carried out under this chapter, the Secretary of Transportation decides that an unsafe condition or practice, or a combination of unsafe conditions and practices, causes an emergency situation involving a hazard of death or personal injury, the Secretary immediately may order restrictions and prohibitions, without regard to section 20103(e) of this title, that may be necessary to abate the situation.

(2) The order shall describe the condition or practice, or a combination of conditions and practices, that causes the emergency situation and prescribe standards and procedures for obtaining relief from the order. This paragraph does not affect the Secretary's discretion under this section to maintain the order in effect for as long as the emergency situation exists.

(b) REVIEW OF ORDERS.—After issuing an order under this section, the Secretary shall provide an opportunity for review of the order under section 554 of title 5. If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the order was issued, the order stops being effective at the end of that period unless the Secretary decides in writing that the emergency situation still exists.

(c) CIVIL ACTIONS TO COMPEL ISSUANCE OF ORDERS.—An employee of a railroad carrier engaged in interstate or foreign commerce who may be exposed to imminent physical injury during that employment because of the Secretary's failure, without any reasonable basis, to issue an order under subsection (a) of this section, or the employee's authorized representative, may bring a civil action against the Secretary in a district court of the United States to compel the Secretary to issue an order. The action must be brought in the judicial district in which the emergency situation is alleged to exist, in which that employing carrier has its principal executive office, or for the District of Columbia. The Secretary's failure to issue an order under subsection (a) of this section may be reviewed only under section 706 of title 5.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 864.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20104(a)	45:432(a), (d).	Oct. 16, 1970, Pub. L. 91–458, § 203, 84 Stat. 972; restated Oct. 10, 1980, Pub. L. 96–423, § 3, 94 Stat. 1811.
20104(b)	45:432(b), (c).	
20104(c)	45:432(e).	

In subsection (a)(1), the words ''or both'' are omitted as surplus. The words ''immediately may order restrictions and prohibitions . . . that may be necessary to abate the situation'' are substituted for ''may immediately issue an order . . . imposing such restrictions or prohibitions as may be necessary to bring about the abatement of such emergency situation'' to eliminate unnecessary words.

In subsection (a)(2), the words ''or a combination of conditions and practices'' are added for consistency with paragraph (1). The words ''(as determined by the Secretary)'' are omitted as surplus. The last sentence is substituted for 45:432(d) (last sentence) for clarity.

In subsection (b), the words ''the Secretary'' are added for clarity.

In subsection (c), the words ''issue an order'' are substituted for ''seek relief'' for consistency in this section. The words ''The action must be brought in the judicial district'' are substituted for ''for the judicial district'' for consistency in the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20111, 20114 of this title.

§ 20105. State participation

(a) INVESTIGATIVE AND SURVEILLANCE ACTIVITIES.—The Secretary of Transportation may prescribe investigative and surveillance activities

necessary to enforce the safety regulations prescribed and orders issued by the Secretary that apply to railroad equipment, facilities, rolling stock, and operations in a State. The State may participate in those activities when the safety practices for railroad equipment, facilities, rolling stock, and operations in the State are regulated by a State authority and the authority submits to the Secretary an annual certification as provided in subsection (b) of this section.

(b) ANNUAL CERTIFICATION.—(1) A State authority's annual certification must include—

(A) a certification that the authority—

(i) has regulatory jurisdiction over the safety practices for railroad equipment, facilities, rolling stock, and operations in the State;

(ii) was given a copy of each safety regulation prescribed and order issued by the Secretary, that applies to the equipment, facilities, rolling stock, or operations, as of the date of certification; and

(iii) is conducting the investigative and surveillance activities prescribed by the Secretary under subsection (a) of this section; and

(B) a report, in the form the Secretary prescribes by regulation, that includes—

(i) the name and address of each railroad carrier subject to the safety jurisdiction of the authority;

(ii) each accident or incident reported during the prior 12 months by a railroad carrier involving a fatality, personal injury requiring hospitalization, or property damage of more than $750 (or a higher amount prescribed by the Secretary), and a summary of the authority's investigation of the cause and circumstances surrounding the accident or incident;

(iii) the record maintenance, reporting, and inspection practices conducted by the authority to aid the Secretary in enforcing railroad safety regulations prescribed and orders issued by the Secretary, including the number of inspections made of railroad equipment, facilities, rolling stock, and operations by the authority during the prior 12 months; and

(iv) other information the Secretary requires.

(2) An annual certification applies to a safety regulation prescribed or order issued after the date of the certification only if the State authority submits an appropriate certification to provide the necessary investigative and surveillance activities.

(3) If, after receipt of an annual certification, the Secretary decides the State authority is not complying satisfactorily with the investigative and surveillance activities prescribed under subsection (a) of this section, the Secretary may reject any part of the certification or take other appropriate action to achieve adequate enforcement. The Secretary must give the authority notice and an opportunity for a hearing before taking action under this paragraph. When the Secretary gives notice, the burden of proof is on the authority to show that it is complying satisfactorily with the investigative and surveillance activities prescribed by the Secretary.

(c) AGREEMENT WHEN CERTIFICATION NOT RECEIVED.—(1) If the Secretary does not receive an annual certification under subsection (a) of this section related to any railroad equipment, facility, rolling stock, or operation, the Secretary may make an agreement with a State authority for the authority to provide any part of the investigative and surveillance activities prescribed by the Secretary as necessary to enforce the safety regulations and orders applicable to the equipment, facility, rolling stock, or operation.

(2) The Secretary may terminate any part of an agreement made under this subsection on finding that the authority has not provided every part of the investigative and surveillance activities to which the agreement relates. The Secretary must give the authority notice and an opportunity for a hearing before making such a finding. The finding and termination shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication.

(d) AGREEMENT FOR INVESTIGATIVE AND SURVEILLANCE ACTIVITIES.—In addition to providing for State participation under this section, the Secretary may make an agreement with a State to provide investigative and surveillance activities related to the Secretary's duties under chapters 203–213 of this title.

(e) PAYMENT.—On application by a State authority that has submitted a certification under subsections (a) and (b) of this section or made an agreement under subsection (c) or (d) of this section, the Secretary shall pay not more than 50 percent of the cost of the personnel, equipment, and activities of the authority needed, during the next fiscal year, to carry out a safety program under the certification or agreement. However, the Secretary may pay an authority only when the authority assures the Secretary that it will provide the remaining cost of the safety program and that the total State money expended for the safety program, excluding grants of the United States Government, will be at least as much as the average amount expended for the fiscal years that ended June 30, 1969, and June 30, 1970.

(f) MONITORING.—The Secretary may monitor State investigative and surveillance practices and carry out other inspections and investigations necessary to help enforce this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 864.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20105(a)	45:435(a) (1st sentence related to authority for State participation).	Oct. 16, 1970, Pub. L. 91–458, §206(a) (1st sentence), (b), (f), 84 Stat. 972, 973, 974; Nov. 16, 1990, Pub. L. 101–615, §28(a)(1)–(3), (b), (c), 104 Stat. 3276, 3277.
20105(b)(1)(A).	45:435(a) (1st sentence related to contents of certification).	
20105(b)(1)(B).	45:435(b) (1st sentence).	
20105(b)(2) ..	45:435(f).	
20105(b)(3) ..	45:435(b) (2d–last sentences).	
20105(c)	45:435(c).	Oct. 16, 1970, Pub. L. 91–458, §206(c), (e), 84 Stat. 973, 974.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20105(d)	45:435(g).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, § 206(g); added Oct. 10, 1980, Pub. L. 96–423, § 4(a), 94 Stat. 1812.
20105(e)	45:435(d).	Oct. 16, 1970, Pub. L. 91–458, § 206(d), 84 Stat. 974; Oct. 10, 1980, Pub. L. 96–423, § 4(b), 94 Stat. 1812.
20105(f)	45:435(e).	

In subsection (a), the first sentence is added for clarity.

In subsection (b)(1)(A)(iii), the words ''as necessary for the enforcement by him of each rule, regulation, order, and standard referred to in paragraph (2) of this subsection, as interpreted by the Secretary'' are omitted as surplus.

In subsection (b)(1)(B)(i) and (ii), the words ''railroad carrier'' are substituted for ''railroad'' because of the definition of ''railroad carrier'' in section 20102 of the revised title.

In subsection (b)(1)(B)(iii), the words ''a detail of'' are omitted as surplus.

In subsection (b)(3), the text of 45:435(b) (2d sentence) and the words ''as he deems'', ''reasonable'', and ''with respect to such safety rules, regulations, orders, and standards'' are omitted as surplus.

In subsection (c)(1), the word ''enforce'' is substituted for ''obtain compliance with'' for clarity and consistency in this section.

In subsection (e), the words ''out of funds appropriated pursuant to this subchapter or otherwise made available'', ''reasonably'', and ''satisfactory'' are omitted as surplus. The words ''will be at least as much as the average amount expended'' are substituted for ''will be maintained at a level which does not fall below the average level of such expenditures'' for clarity and to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20108, 20113, 20117 of this title; title 45 section 54a.

§ 20106. National uniformity of regulation

Laws, regulations, and orders related to railroad safety shall be nationally uniform to the extent practicable. A State may adopt or continue in force a law, regulation, or order related to railroad safety until the Secretary of Transportation prescribes a regulation or issues an order covering the subject matter of the State requirement. A State may adopt or continue in force an additional or more stringent law, regulation, or order related to railroad safety when the law, regulation, or order—

(1) is necessary to eliminate or reduce an essentially local safety hazard;

(2) is not incompatible with a law, regulation, or order of the United States Government; and

(3) does not unreasonably burden interstate commerce.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 866.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20106	45:434.	Oct. 16, 1970, Pub. L. 91–458, § 205, 84 Stat. 972.

In this section, before clause (1), the words ''The Congress declares that'' are omitted as unnecessary. In clause (3), the word ''unreasonably'' is substituted for ''undue'' for consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20132, 20153 of this title.

§ 20107. Inspection and investigation

(a) GENERAL.—To carry out this part, the Secretary of Transportation may take actions the Secretary considers necessary, including—

(1) conduct investigations, make reports, issue subpenas, require the production of documents, take depositions, and prescribe recordkeeping and reporting requirements; and

(2) delegate to a public entity or qualified person the inspection, examination, and testing of railroad equipment, facilities, rolling stock, operations, and persons.

(b) ENTRY AND INSPECTION.—In carrying out this part, an officer, employee, or agent of the Secretary, at reasonable times and in a reasonable way, may enter and inspect railroad equipment, facilities, rolling stock, operations, and relevant records. When requested, the officer, employee, or agent shall display proper credentials. During an inspection, the officer, employee, or agent is an employee of the United States Government under chapter 171 of title 28.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 866.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20107(a)	45:437(a) (1st sentence words before 9th and after 14th commas).	Oct. 16, 1970, Pub. L. 91–458, § 208(a) (1st sentence words before 9th and after 14th commas), 84 Stat. 974, 975.
	45:437(d)(1) (1st sentence).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, § 208(d)(1) (1st sentence); added Oct. 10, 1980, Pub. L. 96–423, § 6(b), 94 Stat. 1813.
20107(b)	45:437(b).	Oct. 16, 1970, Pub. L. 91–458, § 208(b), 84 Stat. 975; restated Nov. 2, 1978, Pub. L. 95–574, § 9, 92 Stat. 2462; Oct. 10, 1980, Pub. L. 96–423, § 6(a), 94 Stat. 1813.

In subsection (a), before clause (1), the words ''To carry out this part, the Secretary of Transportation may'' are substituted for ''In carrying out his functions under this subchapter, the Secretary is authorized to perform . . . to carry out the provisions of this subchapter'' and ''In carrying out the functions formerly vested in the Interstate Commerce Commission and transferred to the Secretary by section 1655(e)(1), (e)(2), and (e)(6)(A) of title 49, Appendix, the Secretary is authorized to perform any act authorized in subsection (a) of this section . . . to carry out such transferred functions'' to eliminate unnecessary words. In clause (2), the word ''entity'' is substituted for ''bodies'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words ''In carrying out this part'' are substituted for ''To carry out the Secretary's responsibilities under this subchapter and under the functions transferred by section 1655(e)(1), (e)(2), and (e)(6)(A) of title 49, Appendix'' to eliminate unnecessary words. The word ''way'' is substituted for ''manner'' for consistency in the revised title and with other titles of the Code. The word ''examine'' is omitted as being included in ''inspect''. The word ''considered'' is omitted as surplus.

§ 20108. Research, development, testing, and training

(a) GENERAL.—The Secretary of Transportation shall carry out, as necessary, research, development, testing, evaluation, and training for every area of railroad safety.

(b) CONTRACTS.—To carry out this part, the Secretary may make contracts for, and carry out, research, development, testing, evaluation, and training (particularly for those areas of railroad safety found to need prompt attention).

(c) AMOUNTS FROM NON-GOVERNMENT SOURCES FOR TRAINING SAFETY EMPLOYEES.—The Secretary may request, receive, and expend amounts received from non-United States Government sources for expenses incurred in training safety employees of private industry, State and local authorities, or other public authorities, except State rail safety inspectors participating in training under section 20105 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 867.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20108(a)	45:431(a) (1st sentence cl. (2)).	Oct. 16, 1970, Pub. L. 91–458, §§ 202(a) (1st sentence cl. (2)), 208(a) (1st sentence words before 3d comma and between 9th–14th commas), 84 Stat. 971, 974.
20108(b)	45:437(a) (1st sentence words before 3d comma and between 9th–14th commas).	
	45:437(d)(1) (1st sentence).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, § 208(d)(1) (1st sentence); added Oct. 10, 1980, Pub. L. 96–423, § 6(b), 94 Stat. 1813.
20108(c)	45:444(a) (last sentence).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, § 214(a) (last sentence); added Oct. 10, 1980, Pub. L. 96–423, § 2, 94 Stat. 1811; Aug. 13, 1981, Pub. L. 97–35, § 1195, 95 Stat. 702; Jan. 14, 1983, Pub. L. 97–468, § 703, 96 Stat. 2580; restated June 22, 1988, Pub. L. 100–342, § 2, 102 Stat. 624; Nov. 5, 1990, Pub. L. 101–508, § 10501(b), 104 Stat. 1388–400; restated Sept. 3, 1992, Pub. L. 102–365, § 12, 106 Stat. 980.

In subsection (b), the words ''To carry out this part, the Secretary may'' are substituted for ''In carrying out his functions under this subchapter, the Secretary is authorized to perform such acts including, but not limited to . . . as he deems necessary to carry out the provisions of this subchapter'' and ''In carrying out the functions formerly vested in the Interstate Commerce Commission and transferred to the Secretary by section 1655(e)(1), (e)(2), and (e)(6)(A) of title 49, Appendix, the Secretary is authorized to perform any act authorized in subsection (a) of this section that he considers necessary to carry out such transferred functions, including, but not limited to'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20115 of this title.

§ 20109. Employee protections

(a) FILING COMPLAINTS AND TESTIFYING.—A railroad carrier engaged in interstate or foreign commerce may not discharge or in any way discriminate against an employee because the employee, whether acting for the employee or as a representative, has—

(1) filed a complaint or brought or caused to be brought a proceeding related to the enforcement of this part or, as applicable to railroad safety, chapter 51 or 57 of this title; or

(2) testified or will testify in that proceeding.

(b) REFUSING TO WORK BECAUSE OF HAZARDOUS CONDITIONS.—(1) A railroad carrier engaged in interstate or foreign commerce may not discharge or in any way discriminate against an employee for refusing to work when confronted by a hazardous condition related to the performance of the employee's duties, if—

(A) the refusal is made in good faith and no reasonable alternative to the refusal is available to the employee;

(B) a reasonable individual in the circumstances then confronting the employee would conclude that—

(i) the hazardous condition presents an imminent danger of death or serious injury; and

(ii) the urgency of the situation does not allow sufficient time to eliminate the danger through regular statutory means; and

(C) the employee, where possible, has notified the carrier of the hazardous condition and the intention not to perform further work unless the condition is corrected immediately.

(2) This subsection does not apply to security personnel employed by a carrier to protect individuals and property transported by railroad.

(c) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim, the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

(e) DISCLOSURE OF IDENTITY.—(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this part or, as applicable to railroad safety, chapter 51 or 57 of this title or a regulation prescribed or order issued under any of those provisions.

(2) The Secretary shall disclose to the Attorney General the name of an employee described

in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 867.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20109(a)	45:441(a).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, § 212(a)–(c)(1), (d); added Oct. 10, 1980, Pub. L. 96–423, § 10, 94 Stat. 1815.
	45:441(e).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, § 212(e); added Oct. 10, 1980, Pub. L. 96–423, § 10, 94 Stat. 1815; Sept. 3, 1992, Pub. L. 102–365, § 5(b), 106 Stat. 975.
20109(b)	45:441(b).	
20109(c)	45:441(c)(1).	
	45:441(c)(2).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, § 212(c)(2); added Oct. 10, 1980, Pub. L. 96–423, § 10, 94 Stat. 1815; restated June 22, 1988, Pub. L. 100–342, § 5(a), 102 Stat. 627.
20109(d)	45:441(d).	
20109(e)	45:441(e).	
	45:441(f).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, § 212(f); added June 22, 1988, Pub. L. 100–342, § 5(b), 102 Stat. 627.

In subsections (a) and (b), the words ''railroad carrier'' are substituted for ''common carrier by railroad'' because of the definition of ''railroad carrier'' in section 20102 of the revised title.

In subsection (a)(1), the words ''under or'' are omitted as surplus.

In subsection (b)(1)(B), before subclause (i), the words ''the hazardous condition is of such a nature that'' are omitted as surplus. The word ''individual'' is substituted for ''person'' as being more appropriate. In subclause (ii), the words ''resort to'' are omitted as surplus.

In subsection (b)(1)(C), the words ''his apprehension of'' are omitted as surplus.

In subsection (b)(2), the words ''by a carrier . . . transported by railroad'' are substituted for ''by a railroad . . . transported by such railroad'' for consistency in the revised title.

Subsection (d) is substituted for 45:441(d) for clarity and to eliminate unnecessary words.

Subsection (e)(2) is substituted for 45:441(f)(2) to eliminate unnecessary words.

§ 20110. Effect on employee qualifications and collective bargaining

This chapter does not—

(1) authorize the Secretary of Transportation to prescribe regulations and issue orders related to qualifications of employees, except qualifications specifically related to safety; or

(2) prohibit the bargaining representatives of railroad carriers and their employees from making collective bargaining agreements under the Railway Labor Act (45 U.S.C. 151 et seq.), including agreements related to qualifications of employees, that are not inconsistent with regulations prescribed and orders issued under this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 868.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20110	45:431(a) (2d, last sentences).	Oct. 16, 1970, Pub. L. 91–458, § 202(a) (2d, last sentences), 84 Stat. 971.

In clause (2), the words ''railroad carriers'' are substituted for ''common carriers'' for consistency in this part.

REFERENCES IN TEXT

The Railway Labor Act, referred to in par. (2), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended, which is classified principally to chapter 8 (§ 151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

§ 20111. Enforcement by the Secretary of Transportation

(a) EXCLUSIVE AUTHORITY.—The Secretary of Transportation has exclusive authority—

(1) to impose and compromise a civil penalty for a violation of a railroad safety regulation prescribed or order issued by the Secretary;

(2) except as provided in section 20113 of this title, to request an injunction for a violation of a railroad safety regulation prescribed or order issued by the Secretary; and

(3) to recommend appropriate action be taken under section 20112(a) of this title.

(b) COMPLIANCE ORDERS.—The Secretary may issue an order directing compliance with this part or with a railroad safety regulation prescribed or order issued under this part.

(c) ORDERS PROHIBITING INDIVIDUALS FROM PERFORMING SAFETY-SENSITIVE FUNCTIONS.—If an individual's violation of this chapter or any of the laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e)(1), (2), and (6)(A) of section 6 of the Department of Transportation Act, as in effect on June 1, 1994, or a regulation prescribed or order issued by the Secretary under this chapter is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after notice and opportunity for a hearing, may issue an order prohibiting the individual from performing safety-sensitive functions in the railroad industry for a specified period of time or until specified conditions are met. This subsection does not affect the Secretary's authority under section 20104 of this title to act on an emergency basis.

(d) REGULATIONS REQUIRING REPORTING OF REMEDIAL ACTIONS.—(1) The Secretary shall prescribe regulations to require that a railroad carrier notified by the Secretary that imposition of a civil penalty will be recommended for a failure to comply with this part, chapter 51 or 57 of this title, or a regulation prescribed or order issued under any of those provisions, shall report to the Secretary, not later than the 30th day after the end of the month in which the notification is received—

(A) actions taken to remedy the failure; or

(B) if appropriate remedial actions cannot be taken by that 30th day, an explanation of the reasons for the delay.

(2) The Secretary—

(A) not later than June 3, 1993, shall issue a notice of a regulatory proceeding for proposed regulations to carry out this subsection; and

(B) not later than September 3, 1994, shall prescribe final regulations to carry out this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 868; Pub. L. 103–440, title II, § 205, Nov. 2, 1994, 108 Stat. 4620.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20111(a)	45:435(a) (last sentence).	Oct. 16, 1970, Pub. L. 91–458, §206(a) (last sentence), 84 Stat. 973; Nov. 16, 1990, Pub. L. 101–615, §28(a)(4), 104 Stat. 3276.
20111(b)	45:437(a) (2d sentence).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §208(a) (2d sentence); added Jan. 3, 1975, Pub. L. 93–633, §206, 88 Stat. 2166; June 22, 1988, Pub. L. 100–342, §8, 102 Stat. 628.
	45:437(d)(1) (last sentence).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §208(d)(1) (last sentence); added Oct. 10, 1980, Pub. L. 96–423, §6(b), 94 Stat. 1814.
20111(c)	45:438(f).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §209(f); added June 22, 1988, Pub. L. 100–342, §3(a)(4), 102 Stat. 625.
20111(d)	45:437 (note).	Sept. 3, 1992, Pub. L. 102–365, §3, 106 Stat. 972.

In this section, the word ''impose'' is substituted for ''assess'' for consistency.

In subsection (b), the word ''further'' is omitted as surplus.

In subsection (d), the words ''this part, chapter 51 or 57 of this title'' are substituted for ''the Federal railroad safety laws, as such term is defined in section 441(e) of this title'' because 45:441(e) is not restated as a definition.

REFERENCES IN TEXT

Section 6 of the Department of Transportation Act, referred to in subsec. (c), is section 6 of Pub. L. 89–670, which was classified to section 1655 of former Title 49, Transportation. Section 6 was repealed and the provisions thereof reenacted in Title 49, Transportation, by Pub. L. 103–272, July 5, 1994, 108 Stat. 745. For disposition of sections of former Title 49, see Table at the beginning of Title 49.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–440 inserted ''this chapter or any of the laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e)(1), (2), and (6)(A) of section 6 of the Department of Transportation Act, as in effect on June 1, 1994, or'' after ''individual's violation of''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20112 of this title.

§ 20112. Enforcement by the Attorney General

(a) CIVIL ACTIONS.—At the request of the Secretary of Transportation, the Attorney General may bring a civil action in a district court of the United States—

(1) to enjoin a violation of, or to enforce, a railroad safety regulation prescribed or order issued by the Secretary;

(2) to collect a civil penalty imposed or an amount agreed on in compromise under section 21301 of this title; or

(3) to enforce a subpena issued by the Secretary under this chapter.

(b) VENUE.—(1) Except as provided in paragraph (2) of this subsection, a civil action under this section may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If an action to collect a penalty is against an individual, the action also may be brought in the judicial district in which the individual resides.

(2) A civil action to enforce a subpena issued by the Secretary or a compliance order issued under section 20111(b) of this title may be brought in the judicial district in which the defendant resides, does business, or is found.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 869.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20112(a)	45:437(a) (last sentence related to authority to bring actions).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §208(a) (last sentence); added June 22, 1988, Pub. L. 100–342, §8, 102 Stat. 628.
	45:437(d)(2).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §208(d)(2); added Oct. 10, 1980, Pub. L. 96–423, §6(b), 94 Stat. 1814.
	45:438(c) (4th sentence related to authority to bring actions).	Oct. 16, 1970, Pub. L. 91–458, §209(c) (4th sentence), 84 Stat. 975; Oct. 10, 1980, Pub. L. 96–423, §8(a), 94 Stat. 1814; June 22, 1988, Pub. L. 100–342, §3(a)(3)(A), (B), 102 Stat. 624.
	45:439(a) (related to actions by Attorney General).	Oct. 16, 1970, Pub. L. 91–458, §210(a) (related to actions by Attorney General), 84 Stat. 975; Oct. 10, 1980, Pub. L. 96–423, §9(a), 94 Stat. 1814; Nov. 16, 1990, Pub. L. 101–615, §28(f), 104 Stat. 3277.
20112(b)(1) ..	45:438(c) (4th sentence related to venue).	
	45:439(c) (related to actions by Attorney General).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §210(c) (related to actions by Attorney General); added Oct. 10, 1980, Pub. L. 96–423, §9(b), 94 Stat. 1815.
20112(b)(2) ..	45:437(a) (last sentence related to venue).	

In subsection (a), before clause (1), the words ''At the request of the Secretary of Transportation'' are substituted for ''at the request of the Secretary'' in 45:439(a), and are made applicable to all of the source provisions restated in this subsection, for clarity and consistency. The words ''at the request of the Secretary'' in 45:439(a) are interpreted and restated to mean that the Secretary's request is to the Attorney General rather than to the district court. See H.R. Rept. No. 91–1194, 91st Cong., 2d Sess., p. 20 (1970). The words ''the Attorney General may bring a civil action in a district court of the United States'' are substituted for ''such district court shall have jurisdiction, upon petition by the Attorney General'' in 45:437(a) (last sentence), ''The district courts of the United States shall have jurisdiction, upon petition by the Attorney General'' in 45:437(d)(2), and ''The United States district court shall . . . upon petition by the Attorney General on behalf of the United States . . . have jurisdiction'' in 45:439(a) for clarity and consistency. It is not necessary to restate that the district court has jurisdiction because of 28:1331 and 1345. See also the statement of Senator Prouty in 115 Cong. Rec. 40205 (1969) explaining that similar language in section 110 of S. 1933, 91st Cong., 1st Sess. (the derivative source for 45:439) would grant the Attorney General the power to seek injunctions. Clauses (1)–(3) are substituted for the source provisions to eliminate unnecessary words. In clause (1), the words ''subject to the provisions of rules 65(a) and (b) of the Federal Rules of Civil Procedure'' in 45:439(a) are omitted as surplus because the Federal Rules of Civil Procedure (28 App. U.S.C.) apply in the district court unless otherwise provided. In clause (2), the words ''or an amount agreed on in compromise'' are added for clarity.

In subsection (b)(1), the text of 45:439(c) (words before 1st comma) is omitted because it applies only to actions brought by a State authority. See discussion of the cross-reference in the note for section 20113(c) of

the revised title. The last sentence is substituted for ''in which the individual resides'' in 45:438(c) because of the restatement.

In subsection (b)(2), the words ''compliance order issued under section 20111(b) of this title'' are substituted for ''order, or directive'' because the latter words are interpreted as referring to ''orders directing compliance'' in 45:437(a) (2d sentence), restated in section 20111(b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20111, 20113 of this title.

§ 20113. Enforcement by the States

(a) INJUNCTIVE RELIEF.—If the Secretary of Transportation does not begin a civil action under section 20112 of this title to enjoin the violation of a railroad safety regulation prescribed or order issued by the Secretary not later than 15 days after the date the Secretary receives notice of the violation and a request from a State authority participating in investigative and surveillance activities under section 20105 of this title that the action be brought, the authority may bring a civil action in a district court of the United States to enjoin the violation. This subsection does not apply if the Secretary makes an affirmative written finding that the violation did not occur or that the action is not necessary because of other enforcement action taken by the Secretary related to the violation.

(b) IMPOSITION AND COLLECTION OF CIVIL PENALTIES.—If the Secretary does not impose the applicable civil penalty for a violation of a railroad safety regulation prescribed or order issued by the Secretary not later than 60 days after the date of receiving notice from a State authority participating in investigative and surveillance activities under section 20105 of this title, the authority may bring a civil action in a district court of the United States to impose and collect the penalty. This paragraph does not apply if the Secretary makes an affirmative written finding that the violation did not occur.

(c) VENUE.—A civil action under this section may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. However, a State authority may not bring an action under this section outside the State.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 869.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20113(a)	45:436(b)(1) (related to authority to bring actions), (2).	Oct. 16, 1970, Pub. L. 91–458, § 207(b), (c), 84 Stat. 974; Nov. 2, 1978, Pub. L. 95–574, § 8, 92 Stat. 2461; restated Oct. 10, 1980, Pub. L. 96–423, § 5, 94 Stat. 1812.
	45:439(a) (related to actions by States).	Oct. 16, 1970, Pub. L. 91–458, § 210(a) (related to actions by States), 84 Stat. 975; Oct. 10, 1980, Pub. L. 96–423, § 9(a), 94 Stat. 1814; Nov. 16, 1990, Pub. L. 101–615, § 28(f), 104 Stat. 3277.
20113(b)	45:436(a)(1) (related to authority to bring actions), (2).	Oct. 16, 1970, Pub. L. 91–458, § 207(a), 84 Stat. 974; Nov. 2, 1978, Pub. L. 95–574, § 8, 92 Stat. 2461; restated Oct. 10, 1980, Pub. L. 96–423, § 5, 94 Stat. 1812; Nov. 16, 1990, Pub. L. 101–615, § 28(e), 104 Stat. 3277.
20113(c)	45:436(a)(1) (related to venue), (b)(1) (related to venue), (c).	
	45:439(c) (related to actions by States).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, § 210(c) (related to actions by States); added Oct. 10, 1980, Pub. L. 96–423, § 9(b), 94 Stat. 1815.

In subsection (a), the language about jurisdiction in 45:439(a) (related to actions by States) is omitted for the reasons explained in the revision note for section 20112(a) of the revised title.

In subsection (b), the word ''impose'' is substituted for ''assess'' for consistency. The words ''the authority may bring a civil action in an appropriate district court of the United States'' are substituted for ''agency may apply to the United States district court'' for consistency in the revised title and with other titles of the United States Code. The words ''included in or made applicable to such rule, regulation, order, or standard'' are omitted as surplus.

In subsection (c), the reference to ''section 207(d)'' in section 210(c) of the Federal Railroad Safety Act of 1970 (Public Law 91–458, 84 Stat. 971), as added by section 9(b) of the Federal Railroad Safety Authorization Act of 1980 (Public Law 96–423, 94 Stat. 1815), is assumed to have been intended as a reference to section 207(c). The Federal Railroad Safety Authorization Act of 1980 was derived from S. 2730, which in turn was derived from H.R. 7104. See 126 Cong. Rec. 26535 (1980). Section 207(d) in an earlier version of H.R. 7104 was redesignated as section 207(c) during the legislative process and no section 207(d) was enacted. See H.R. Rept. No. 96–1025, 96th Cong., 2d Sess., pp. 14, 15 (1980).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20111, 21301 of this title.

§ 20114. Judicial procedures

(a) CRIMINAL CONTEMPT.—In a trial for criminal contempt for violating an injunction or restraining order issued under this chapter, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(b) SUBPENAS FOR WITNESSES.—A subpena for a witness required to attend a district court of the United States in an action brought under this chapter may be served in any judicial district.

(c) REVIEW OF AGENCY ACTION.—Except as provided in section 20104(c) of this title, a proceeding to review a final action of the Secretary of Transportation under this part or, as applicable to railroad safety, chapter 51 or 57 of this title shall be brought in the appropriate court of appeals as provided in chapter 158 of title 28.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 870.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20114(a)	45:439(b).	Oct. 16, 1970, Pub. L. 91–458, §§ 209(d), 210(b), 84 Stat. 975, 976.
20114(b)	45:438(d).	
20114(c)	45:431(f).	Oct. 16, 1970, Pub. L. 91–458, § 202(f), 84 Stat. 972; restated Sept. 3, 1992, Pub. L. 102–365, § 5(a)(1), 106 Stat. 975.

In subsection (a), the words ''the defendant may demand a jury trial'' are substituted for ''trial shall be by the court, or, upon demand of the accused, by a jury'' to eliminate unnecessary words and for consistency in the revised title.

In subsection (b), the words ''may be served in any judicial district'' are substituted for ''may run into any other district'' for clarity.

In subsection (c), the words ''a final action of the Secretary'' are substituted for ''Any final agency action taken by the Secretary'' to eliminate unnecessary words. The words ''this part or, as applicable to railroad safety, chapter 51 or 57 of this title'' are substituted for ''this subchapter or under any of the other Federal railroad safety laws, as defined in section 441(e) of this title'' because of the restatement. The words ''is subject to judicial review as provided in chapter 7 of title 5'' are omitted as unnecessary because 5:ch. 7 applies unless otherwise stated. The words ''by and in the manner prescribed'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 28 section 2342.

§ 20115. User fees

(a) SCHEDULE OF FEES.—The Secretary of Transportation shall prescribe by regulation a schedule of fees for railroad carriers subject to this chapter. The fees—

(1) shall cover the costs of carrying out this chapter (except section 20108(a));

(2) shall be imposed fairly on the railroad carriers, in reasonable relationship to an appropriate combination of criteria such as revenue ton-miles, track miles, passenger miles, or other relevant factors; and

(3) may not be based on that part of industry revenues attributable to a railroad carrier or class of railroad carriers.

(b) COLLECTION PROCEDURES.—The Secretary shall prescribe procedures to collect the fees. The Secretary may use the services of a department, agency, or instrumentality of the United States Government or of a State or local authority to collect the fees, and may reimburse the department, agency, or instrumentality a reasonable amount for its services.

(c) COLLECTION, DEPOSIT, AND USE.—(1) The Secretary shall impose and collect fees under this section for each fiscal year before the end of the fiscal year.

(2) Fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts. The fees may be used, to the extent provided in advance in an appropriation law, only to carry out this chapter.

(3) Fees prescribed under this section shall be imposed in an amount sufficient to pay for the costs of activities under this chapter. However, the total fees received for a fiscal year may not be more than 105 percent of the total amount of the appropriations for the fiscal year for activities to be financed by the fees.

(d) ANNUAL REPORT.—(1) Not later than 90 days after the end of each fiscal year in which fees are collected under this section, the Secretary shall report to Congress on—

(A) the amount of fees collected during that fiscal year;

(B) the impact of the fees on the financial health of the railroad industry and its competitive position relative to each competing mode of transportation; and

(C) the total cost of Government safety activities for each other competing mode of transportation, including any part of that total cost defrayed by Government user fees.

(2) Not later than 90 days after submitting a report for a fiscal year, the Secretary shall submit to Congress recommendations for corrective legislation if the report includes a finding that—

(A) there has been an impact from the fees on the financial health of the railroad industry or its competitive position relative to each competing mode of transportation; or

(B) there is a significant difference in the burden of Government user fees on the railroad industry and other competing modes of transportation.

(e) EXPIRATION.—This section expires on September 30, 1995.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 870.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20115(a)	45:447(a)(1), (3).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, § 216; added Nov. 5, 1990, Pub. L. 101–508, § 10501(a), 104 Stat. 1388–399.
20115(b)	45:447(a)(2).	
20115(c)	45:447(b)–(d).	
20115(d)	45:447(e).	
20115(e)	45:447(f).	

In subsection (a), before clause (1), the words ''after notice and comment'' are omitted as unnecessary because of 5:553.

In subsection (c), the words ''beginning on March 1, 1991'' are omitted as obsolete.

[§ 20116. Repealed. Pub. L. 104–66, title I, § 1121(g)(1), Dec. 21, 1995, 109 Stat. 724]

Section, added Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 871; amended Pub. L. 103–440, title II, § 206(a), Nov. 2, 1994, 108 Stat. 4620, related to biennial safety reports.

§ 20117. Authorization of appropriations

(a) GENERAL.—(1) Not more than the following amounts may be appropriated to the Secretary of Transportation to carry out this chapter:

(A) $68,283,000 for the fiscal year ending September 30, 1993.

(B) $71,690,000 for the fiscal year ending September 30, 1994.

(C) $68,289,000 for fiscal year 1995.

(D) $75,112,000 for fiscal year 1996.

(E) $82,563,000 for fiscal year 1997.

(F) $90,739,000 for fiscal year 1998.

(2) Not more than $5,000,000 may be appropriated to the Secretary for the fiscal year ending September 30, 1993, to carry out section 20105 of this title.

(b) GRADE CROSSING SAFETY.—Not more than $1,000,000 may be appropriated to the Secretary for improvements in grade crossing safety, except demonstration projects under section 20134(c) of this title. Amounts appropriated under this subsection remain available until expended.

(c) RESEARCH AND DEVELOPMENT, AUTOMATED TRACK INSPECTION, AND STATE PARTICIPATION GRANTS.—Amounts appropriated under this section for research and development, automated

track inspection, and grants under section 20105(e) of this title remain available until expended.

(d) MINIMUM AVAILABLE FOR CERTAIN PURPOSES.—At least 50 percent of the amounts appropriated to the Secretary for a fiscal year to carry out railroad research and development programs under this chapter or another law shall be available for safety research, improved track inspection and information acquisition technology, improved railroad freight transportation, and improved railroad passenger systems.

(e) OPERATION LIFESAVER.—In addition to amounts otherwise authorized by law, there are authorized to be appropriated for railroad research and development $300,000 for fiscal year 1995, $500,000 for fiscal year 1996, and $750,000 for fiscal year 1997, to support Operation Lifesaver, Inc.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 872; Pub. L. 103–440, title II, §§202, 218, Nov. 2, 1994, 108 Stat. 4619, 4625.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20117(a)(1) ..	45:444(a) (1st sentence).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §214(a) (1st sentence); added Oct. 10, 1980, Pub. L. 96–423, §2, 94 Stat. 1811; Aug. 13, 1981, Pub. L. 97–35, §1195, 95 Stat. 702; Jan. 14, 1983, Pub. L. 97–468, §703, 96 Stat. 2580; restated June 22, 1988, Pub. L. 100–342, §2, 102 Stat. 624; Nov. 5, 1990, Pub. L. 101–508, §10501(b), 104 Stat. 1388–400; restated Sept. 3, 1992, Pub. L. 102–365, §12, 106 Stat. 980.
20117(a)(2) ..	45:435(h).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §206(h); Nov. 16, 1990, Pub. L. 101–615, §28(d), 104 Stat. 3277.
20117(b)	45:445(c).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §215(c); added June 22, 1988, Pub. L. 100–342, §20, 102 Stat. 638.
20117(c)	45:444(b).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §214(b); added Oct. 10, 1980, Pub. L. 96–423, §2, 94 Stat. 1811; Jan. 14, 1983, Pub. L. 97–468, §703, 96 Stat. 2580; restated June 22, 1988, Pub. L. 100–342, §2, 102 Stat. 624.
20117(d)	45:442.	Nov. 2, 1978, Pub. L. 95–574, §3, 92 Stat. 2459.

In subsection (a), references to fiscal years prior to 1993 are omitted as obsolete.

AMENDMENTS

1994—Subsec. (a)(1)(C) to (F). Pub. L. 103–440, §202, added subpars. (C) to (F).

Subsec. (e). Pub. L. 103–440, §218, added subsec. (e).

SUBCHAPTER II—PARTICULAR ASPECTS OF SAFETY

§ 20131. Restricted access to rolling equipment

The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to require that when railroad carrier employees (except train or yard crews) assigned to inspect, test, repair, or service rolling equipment have to work on, under, or between that equipment, every manually operated switch, including each crossover switch, providing access to the track on which the equipment is located is lined against movement to that track and secured by an effective locking device that can be removed only by the class or craft of employees performing the inspection, testing, repair, or service.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 872.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20131	45:431(g) (1st sentence cl. (1)).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(g) (1st sentence cl. (1)); added July 8, 1976, Pub. L. 94–348, §5(b), 90 Stat. 820.

The words ''within 180 days after July 8, 1976'' are omitted as expired.

§ 20132. Visible markers for rear cars

(a) GENERAL.—The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to require that—

(1) the rear car of each passenger and commuter train has at least one highly visible marker that is lighted during darkness and when weather conditions restrict clear visibility; and

(2) the rear car of each freight train has highly visible markers during darkness and when weather conditions restrict clear visibility.

(b) PREEMPTION.—Notwithstanding section 20106 of this title, subsection (a) of this section does not prohibit a State from continuing in force a law, regulation, or order in effect on July 8, 1976, related to lighted markers on the rear car of a freight train except to the extent it would cause the car to be in violation of this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 873.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20132(a)	45:431(g) (1st sentence cls. (2), (3)).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(g) (1st sentence cls. (2), (3), last sentence); added July 8, 1976, Pub. L. 94–348, §5(b), 90 Stat. 820.
20132(b)	45:431(g) (last sentence).	

In subsection (a), before clause (1), the words ''within 180 days after July 8, 1976'' are omitted as expired.

§ 20133. Passenger cars

(a) MINIMUM STANDARDS.—The Secretary of Transportation shall prescribe regulations establishing minimum standards for the safety of cars used by railroad carriers to transport passengers. Before prescribing such regulations, the Secretary shall consider—

(1) the crashworthiness of the cars;

(2) interior features (including luggage restraints, seat belts, and exposed surfaces) that may affect passenger safety;

(3) maintenance and inspection of the cars;

(4) emergency response procedures and equipment; and

(5) any operating rules and conditions that directly affect safety not otherwise governed by regulations.

The Secretary may make applicable some or all of the standards established under this subsection to cars existing at the time the regulations are prescribed, as well as to new cars, and the Secretary shall explain in the rulemaking document the basis for making such standards applicable to existing cars.

(b) INITIAL AND FINAL REGULATIONS.—(1) The Secretary shall prescribe initial regulations under subsection (a) within 3 years after November 2, 1994. The initial regulations may exempt equipment used by tourist, historic, scenic, and excursion railroad carriers to transport passengers.

(2) The Secretary shall prescribe final regulations under subsection (a) within 5 years after November 2, 1994.

(c) PERSONNEL.—The Secretary may establish within the Department of Transportation 2 additional full-time equivalent positions beyond the number permitted under existing law to assist with the drafting, prescribing, and implementation of regulations under this section.

(d) CONSULTATION.—In prescribing regulations, issuing orders, and making amendments under this section, the Secretary may consult with Amtrak, public authorities operating railroad passenger service, other railroad carriers transporting passengers, organizations of passengers, and organizations of employees. A consultation is not subject to the Federal Advisory Committee Act (5 U.S.C. App.), but minutes of the consultation shall be placed in the public docket of the regulatory proceeding.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 873; Pub. L. 103–440, title II, §215(a), Nov. 2, 1994, 108 Stat. 4623; Pub. L. 104–287, §5(47), Oct. 11, 1996, 110 Stat. 3393.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20133(a)	45:431(h)(1)(A) (1st, last sentences), (B), (4).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(h); added Oct. 10, 1980, Pub. L. 96–423, §14, 94 Stat. 1817; Jan. 14, 1983, Pub. L. 97–468, §702(a), 96 Stat. 2579.
20133(b)	45:431(h)(1)(A) (2d, 3d sentences), (2).	
20133(c)	45:431(h)(3).	

In subsection (a), the words ''within one year after January 14, 1983'' and ''initial'' are omitted as obsolete. The text of 45:431(h)(1)(B) is omitted as executed. The words ''after a hearing in accordance with subsection (b) of this section'' are omitted as surplus because of section 20103(e) of the revised title.

In subsections (b) and (c), the word ''subsequent'' is omitted as surplus.

In subsection (c), the word ''Amtrak'' is substituted for ''National Railroad Passenger Corporation'' for consistency in this subtitle. The word ''regulatory'' is substituted for ''rulemaking'' for consistency in the revised title.

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (d), 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. (b)(1). Pub. L. 104–287, §5(47)(A), substituted ''November 2, 1994'' for ''the date of enactment of the Federal Railroad Safety Authorization Act of 1994''.

Subsec. (b)(2). Pub. L. 104–287, §5(47)(B), substituted ''November 2, 1994'' for ''such date of enactment''.

1994—Pub. L. 103–440 amended section generally, substituting present provisions for provisions requiring the Secretary to take administrative action to ensure that the construction, operation, and maintenance of passenger rail equipment maximize the safety of passengers, and providing for areas of consideration and concentration, as well as consultation with Amtrak.

§ 20134. Grade crossings and railroad rights of way

(a) GENERAL.—To the extent practicable, the Secretary of Transportation shall maintain a coordinated effort to develop and carry out solutions to the railroad grade crossing problem and measures to protect pedestrians in densely populated areas along railroad rights of way. To carry out this subsection, the Secretary may use the authority of the Secretary under this chapter and over highway, traffic, and motor vehicle safety and over highway construction.

(b) SIGNAL SYSTEMS AND OTHER DEVICES.—Not later than June 22, 1989, the Secretary shall prescribe regulations and issue orders to ensure the safe maintenance, inspection, and testing of signal systems and devices at railroad highway grade crossings.

(c) DEMONSTRATION PROJECTS.—(1) The Secretary shall establish demonstration projects to evaluate whether accidents and incidents involving trains would be reduced by—

(A) reflective markers installed on the road surface or on a signal post at railroad grade crossings;

(B) stop signs or yield signs installed at grade crossings; and

(C) speed bumps or rumble strips installed on the road surfaces at the approaches to grade crossings.

(2) Not later than June 22, 1990, the Secretary shall submit a report on the results of the demonstration projects to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 873; Pub. L. 104–287, §5(48), Oct. 11, 1996, 110 Stat. 3393.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20134(a)	45:433(b).	Oct. 16, 1970, Pub. L. 91–458, §204(b), 84 Stat. 972.
20134(b)	45:431(q).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §§202(q), 215(a), (b); added June 22, 1988, Pub. L. 100–342, §§20, 23, 102 Stat. 638, 639; Sept. 3, 1992, Pub. L. 102–365, §2(4), 106 Stat. 972.
20134(c)	45:445(a), (b).	

In subsection (a), the words ''In addition'' are omitted as surplus. The word ''maintain'' is substituted for ''undertake'' for clarity because the effort has begun. The words ''the objective of'' are omitted as surplus.

The words ''To carry out this section, the Secretary may use'' are added for clarity.

In subsection (b), the words ''Not later than June 22, 1989'' are substituted for ''within one year after June 22, 1988'' for clarity.

In subsection (c)(1), before clause (A), and (2), the word ''Secretary'' is substituted for ''Federal Railroad Administration'' for clarity and consistency in the revised title. In this restatement, the Secretary of Transportation carries out all laws. However, this subsection is based on source provisions that provide that the Federal Railroad Administration carries out the subsection. A cross-reference to this subsection has been included in 49:103 to preserve duties and powers under this subsection to the Administrator of the Federal Railroad Administration.

In subsection (c)(1), before clause (A), the words ''and incidents'' are added for consistency in this part.

AMENDMENTS

1996—Subsec. (c)(2). Pub. L. 104–287 substituted ''Committee on Transportation and Infrastructure'' for ''Committee on Energy and Commerce''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 103, 20117 of this title.

§ 20135. Licensing or certification of locomotive operators

(a) GENERAL.—The Secretary of Transportation shall prescribe regulations and issue orders to establish a program requiring the licensing or certification, after one year after the program is established, of any operator of a locomotive.

(b) PROGRAM REQUIREMENTS.—The program established under subsection (a) of this section—

(1) shall be carried out through review and approval of each railroad carrier's operator qualification standards;

(2) shall provide minimum training requirements;

(3) shall require comprehensive knowledge of applicable railroad carrier operating practices and rules;

(4) except as provided in subsection (c)(1) of this section, shall require consideration, to the extent the information is available, of the motor vehicle driving record of each individual seeking licensing or certification, including—

(A) any denial, cancellation, revocation, or suspension of a motor vehicle operator's license by a State for cause within the prior 5 years; and

(B) any conviction within the prior 5 years of an offense described in section 30304(a)(3)(A) or (B) of this title;

(5) may require, based on the individual's driving record, disqualification or the granting of a license or certification conditioned on requirements the Secretary prescribes; and

(6) shall require an individual seeking a license or certification—

(A) to request the chief driver licensing official of each State in which the individual has held a motor vehicle operator's license within the prior 5 years to provide information about the individual's driving record to the individual's employer, prospective employer, or the Secretary, as the Secretary requires; and

(B) to make the request provided for in section 30305(b)(4) of this title for information to be sent to the individual's employer, prospective employer, or the Secretary, as the Secretary requires.

(c) WAIVERS.—(1) The Secretary shall prescribe standards and establish procedures for waiving subsection (b)(4) of this section for an individual or class of individuals who the Secretary decides are not currently unfit to operate a locomotive. However, the Secretary may waive subsection (b)(4) for an individual or class of individuals with a conviction, cancellation, revocation, or suspension described in paragraph (2)(A) or (B) of this subsection only if the individual or class, after the conviction, cancellation, revocation, or suspension, successfully completes a rehabilitation program established by a railroad carrier or approved by the Secretary.

(2) If an individual, after the conviction, cancellation, revocation, or suspension, successfully completes a rehabilitation program established by a railroad carrier or approved by the Secretary, the individual may not be denied a license or certification under subsection (b)(4) of this section because of—

(A) a conviction for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance; or

(B) the cancellation, revocation, or suspension of the individual's motor vehicle operator's license for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance.

(d) OPPORTUNITY FOR HEARING.—An individual denied a license or certification or whose license or certification is conditioned on requirements prescribed under subsection (b)(4) of this section shall be entitled to a hearing under section 20103(e) of this title to decide whether the license has been properly denied or conditioned.

(e) OPPORTUNITY TO EXAMINE AND COMMENT ON INFORMATION.—The Secretary, employer, or prospective employer, as appropriate, shall make information obtained under subsection (b)(6) of this section available to the individual. The individual shall be given an opportunity to comment in writing about the information. Any comment shall be included in any record or file maintained by the Secretary, employer, or prospective employer that contains information to which the comment is related.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 874.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20135(a)	45:431(i)(1).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, § 202(i); added June 22, 1988, Pub. L. 100–342, §§ 4(a), 7(b), 102 Stat. 625, 628; Sept. 3, 1992, Pub. L. 102–365, § 2(1), 106 Stat. 972.
20135(b)	45:431(i)(2).	
20135(c)(1) ..	45:431(i)(4).	
20135(c)(2) ..	45:431(i)(6).	
20135(d)	45:431(i)(5).	
20135(e)	45:431(i)(3).	

In subsection (a), the words ''within 12 months after June 22, 1988'' are omitted as executed. The words ''including any locomotive engineer'' are omitted as surplus. The words ''after one year after'' are substituted

for ''after the expiration of 12 months following'' to eliminate unnecessary words.

In subsection (b)(5), the word ''requirements'' is substituted for ''terms'' for consistency in this section.

In subsection (c)(1), the words ''In establishing the program under this subsection'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20138 of this title.

§ 20136. Automatic train control and related systems

The Secretary of Transportation shall prescribe regulations and issue orders to require that—

(1) an individual performing a test of an automatic train stop, train control, or cab signal apparatus required by the Secretary to be performed before entering territory where the apparatus will be used shall certify in writing that the test was performed properly; and

(2) the certification required under clause (1) of this section shall be maintained in the same way and place as the daily inspection report for the locomotive.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 875; Pub. L. 103–429, §6(19), Oct. 31, 1994, 108 Stat. 4379.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20136	45:431(j).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(j); added June 22, 1988, Pub. L. 100–342, §9, 102 Stat. 628.

The words ''Within 90 days after June 22, 1988'' are omitted as expired.

PUB. L. 103–429

This amends 49:20136(2) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 875).

AMENDMENTS

1994—Par. (2). Pub. L. 103–429 substituted ''section'' for ''subsection''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§ 20137. Event recorders

(a) DEFINITION.—In this section, ''event recorder'' means a device that—

(1) records train speed, hot box detection, throttle position, brake application, brake operations, and any other function the Secretary of Transportation considers necessary to record to assist in monitoring the safety of train operation, such as time and signal indication; and

(2) is designed to resist tampering.

(b) REGULATIONS AND ORDERS.—Not later than December 22, 1989, the Secretary shall prescribe regulations and issue orders that may be necessary to enhance safety by requiring that a train be equipped with an event recorder not later than one year after the regulations are prescribed and the orders are issued. However, if the Secretary finds it is impracticable to equip trains within that one-year period, the Secretary may extend the period to a date that is not later than 18 months after the regulations are prescribed and the orders are issued.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 875.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20137	45:431(m).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(m); added June 22, 1988, Pub. L. 100–342, §10, 102 Stat. 629.

In subsection (b), the words ''Not later than December 22, 1989'' are substituted for ''within 18 months after June 22, 1988'' for clarity. The words ''may extend the period to a date that is not later than 18 months after the regulations are prescribed and the orders are issued'' are substituted for ''may extend the deadline for compliance with such requirement, but in no event shall such deadline be extended past 18 months after such rules, regulations, orders, and standards are issued'' to eliminate unnecessary words.

§ 20138. Tampering with safety and operational monitoring devices

(a) GENERAL.—The Secretary of Transportation shall prescribe regulations and issue orders to prohibit the willful tampering with, or disabling of, any specified railroad safety or operational monitoring device.

(b) PENALTIES.—(1) A railroad carrier operating a train on which a safety or operational monitoring device is tampered with or disabled in violation of a regulation prescribed or order issued under subsection (a) of this section is liable to the United States Government for a civil penalty under section 21301 of this title.

(2) An individual tampering with or disabling a safety or operational monitoring device in violation of a regulation prescribed or order issued under subsection (a) of this section, or knowingly operating or allowing to be operated a train on which such a device has been tampered with or disabled, is liable for penalties established by the Secretary. The penalties may include—

(A) a civil penalty under section 21301 of this title;

(B) suspension from work; and

(C) suspension or loss of a license or certification issued under section 20135 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 876.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20138	45:431(*o*).	Oct 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(*o*); added June 22, 1988, Pub. L. 100–342, §21, 102 Stat. 638; Sept. 3, 1992, Pub. L. 102–365, §2(3), 106 Stat. 972.

In subsection (a), the words ''within 90 days after June 22, 1988'' are omitted as expired.

In subsection (b), the words ''by another person'' are omitted as surplus.

§ 20139. Maintenance-of-way operations on railroad bridges

Not later than June 22, 1989, the Secretary of Transportation shall prescribe regulations and issue orders for the safety of maintenance-of-way employees on railroad bridges. The Secretary at least shall provide in those regulations standards for bridge safety equipment, including nets, walkways, handrails, and safety lines, and requirements for the use of vessels when work is performed on bridges located over bodies of water.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 876.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20139	45:431(n).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, § 202(n); added June 22, 1988, Pub. L. 100–342, § 19(a), 102 Stat. 637; Sept. 3, 1992, Pub. L. 102–365, § 2(2), 106 Stat. 972.

The words ''Not later than June 22, 1989'' are substituted for ''within one year after June 22, 1988'' for clarity.

§ 20140. Alcohol and controlled substances testing

(a) DEFINITION.—In this section, ''controlled substance'' means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) specified by the Secretary of Transportation.

(b) GENERAL.—(1) In the interest of safety, the Secretary of Transportation shall prescribe regulations and issue orders, not later than October 28, 1992, related to alcohol and controlled substances use in railroad operations. The regulations shall establish a program requiring—

(A) a railroad carrier to conduct preemployment, reasonable suspicion, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of a controlled substance in violation of law or a United States Government regulation, and to conduct reasonable suspicion, random, and post-accident testing of such employees for the use of alcohol in violation of law or a United States Government regulation; the regulations shall permit such railroad carriers to conduct preemployment testing of such employees for the use of alcohol; and

(B) when the Secretary considers it appropriate, disqualification for an established period of time or dismissal of any employee found—

(i) to have used or been impaired by alcohol when on duty; or

(ii) to have used a controlled substance, whether or not on duty, except as allowed for medical purposes by law or a regulation or order under this chapter.

(2) When the Secretary of Transportation considers it appropriate in the interest of safety, the Secretary may prescribe regulations and issue orders requiring railroad carriers to conduct periodic recurring testing of railroad employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(c) TESTING AND LABORATORY REQUIREMENTS.—In carrying out this section, the Secretary of Transportation shall develop requirements that shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;

(2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines, including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested; and

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that a laboratory involved in controlled substances testing under this section have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that all tests indicating the use of alcohol or a controlled substance in violation of law or a Government regulation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent the possibility of tampering, so that if the individual's confirmation test results are positive the individual has an opportunity to have the retained part tested by a 2d confirmation test done independently at another certified laboratory if the individual requests the 2d confirmation test not later than 3 days after being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (other than information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the

orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(d) REHABILITATION.—The Secretary of Transportation shall prescribe regulations or issue orders establishing requirements for rehabilitation programs that at least provide for the identification and opportunity for treatment of railroad employees responsible for safety-sensitive functions (as decided by the Secretary) in need of assistance in resolving problems with the use of alcohol or a controlled substance in violation of law or a Government regulation. The Secretary shall decide on the circumstances under which employees shall be required to participate in a program. Each railroad carrier is encouraged to make such a program available to all of its employees in addition to employees responsible for safety-sensitive functions. This subsection does not prevent a railroad carrier from establishing a program under this subsection in cooperation with another railroad carrier.

(e) INTERNATIONAL OBLIGATIONS AND FOREIGN LAWS AND REGULATIONS.—In carrying out this section, the Secretary of Transportation—

(1) shall establish only requirements that are consistent with international obligations of the United States; and

(2) shall consider applicable laws and regulations of foreign countries.

(f) OTHER REGULATIONS ALLOWED.—This section does not prevent the Secretary of Transportation from continuing in effect, amending, or further supplementing a regulation prescribed or order issued before October 28, 1991, governing the use of alcohol or a controlled substance in railroad operations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 876; Pub. L. 104–59, title III, §342(b), Nov. 28, 1995, 109 Stat. 609.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20140(a)	45:431(r)(5).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(r); added Oct. 28, 1991, Pub. L. 102–143, §4, 105 Stat. 957.
20140(b)	45:431(r)(1) (1st–3d sentences).	
20140(c)	45:431(r)(2).	
20140(d)	45:431(r)(3).	
20140(e)	45:431(r)(4).	
20140(f)	45:431(r)(1) (last sentence).	

In subsection (b)(1), before clause (A), the words ''controlled substances'' are substituted for ''drug'' for consistency in this section. In clauses (B) and (C), the word ''found'' is substituted for ''determined'' for consistency in the revised title.

In subsection (c)(3), the words ''of any employee'' are omitted as surplus.

In subsection (c)(4), the words ''by any employee'' are omitted as surplus.

In subsection (c)(5), the word ''tested'' is substituted for ''assayed'' for consistency. The words ''2d confirmation test'' are substituted for ''independent test'' for clarity and consistency.

AMENDMENTS

1995—Subsec. (b)(1)(A). Pub. L. 104–59 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''a railroad carrier to conduct preemployment, reasonable suspicion, random, and postaccident testing of all railroad employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a United States Government regulation; and''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5331 of this title.

§ 20141. Power brake safety

(a) REVIEW AND REVISION OF EXISTING REGULATIONS.—The Secretary of Transportation shall review existing regulations on railroad power brakes and, not later than December 31, 1993, revise the regulations based on safety information presented during the review. Where applicable, the Secretary shall prescribe regulations that establish standards on dynamic braking equipment.

(b) 2-WAY END-OF-TRAIN DEVICES.—(1) The Secretary shall require 2-way end-of-train devices (or devices able to perform the same function) on road trains, except locals, road switchers, or work trains, to enable the initiation of emergency braking from the rear of a train. The Secretary shall prescribe regulations as soon as possible, but not later than December 31, 1993, requiring the 2-way end-of-train devices. The regulations at least shall—

(A) establish standards for the devices based on performance;

(B) prohibit a railroad carrier, on or after the date that is one year after the regulations are prescribed, from acquiring any end-of-train device for use on trains that is not a 2-way device meeting the standards established under clause (A) of this paragraph;

(C) require that the trains be equipped with 2-way end-of-train devices meeting those standards not later than 4 years after the regulations are prescribed; and

(D) provide that any 2-way end-of-train device acquired for use on trains before the regulations are prescribed shall be deemed to meet the standards.

(2) The Secretary may consider petitions to amend the regulations prescribed under paragraph (1) of this subsection to allow the use of alternative technologies that meet the same basic performance requirements established by the regulations.

(3) In developing the regulations required by paragraph (1) of this subsection, the Secretary shall consider information presented under subsection (a) of this section.

(c) EXCLUSIONS.—The Secretary may exclude from regulations prescribed under subsections (a) and (b) of this section any category of trains or rail operations if the Secretary decides that the exclusion is in the public interest and is consistent with railroad safety. The Secretary shall make public the reasons for the exclusion. The Secretary at least shall exclude from the regulations prescribed under subsection (b)—

(1) trains that have manned cabooses;

(2) passenger trains with emergency brakes;

(3) trains that operate only on track that is not part of the general railroad system;

(4) trains that do not exceed 30 miles an hour and do not operate on heavy grades, except for any categories of trains specifically designated by the Secretary; and

(5) trains that operate in a push mode.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 878.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20141(a)	45:431(r)(1), (2).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, § 202(r); added Sept. 3, 1992, Pub. L. 102–365, § 7, 106 Stat. 976.
20141(b)	45:431(r)(3).	
20141(c)	45:431(r)(4).	

§ 20142. Track safety

(a) REVIEW OF EXISTING REGULATIONS.—Not later than March 3, 1993, the Secretary of Transportation shall begin a review of Department of Transportation regulations related to track safety standards. The review at least shall include an evaluation of—

(1) procedures associated with maintaining and installing continuous welded rail and its attendant structure, including cold weather installation procedures;

(2) the need for revisions to regulations on track excepted from track safety standards; and

(3) employee safety.

(b) REVISION OF REGULATIONS.—Not later than September 1, 1995, the Secretary shall prescribe regulations and issue orders to revise track safety standards, considering safety information presented during the review under subsection (a) of this section and the report of the Comptroller General submitted under subsection (c) of this section.

(c) COMPTROLLER GENERAL'S STUDY AND REPORT.—The Comptroller General shall study the effectiveness of the Secretary's enforcement of track safety standards, with particular attention to recent relevant railroad accident experience and information. Not later than September 3, 1993, the Comptroller General shall submit a report to Congress and the Secretary on the results of the study, with recommendations for improving enforcement of those standards.

(d) IDENTIFICATION OF INTERNAL RAIL DEFECTS.—In carrying out subsections (a) and (b), the Secretary shall consider whether or not to prescribe regulations and issue orders concerning—

(1) inspection procedures to identify internal rail defects, before they reach imminent failure size, in rail that has significant shelling; and

(2) any specific actions that should be taken when a rail surface condition, such as shelling, prevents the identification of internal defects.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 879; Pub. L. 103–440, title II, § 208, Nov. 2, 1994, 108 Stat. 4621.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20142(a)	45:431(s)(1) (1st sentence), (2).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, § 202(s); added Sept. 3, 1992, Pub. L. 102–365, § 8, 106 Stat. 976.
20142(b)	45:431(s)(1) (last sentence).	
20142(c)	45:431(s)(3).	

In subsection (c), the word ''information'' is substituted for ''data'' for consistency in the revised title.

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–440, § 208(2), inserted '', including cold weather installation procedures'' after ''attendant structure''.

Subsec. (b). Pub. L. 103–440, § 208(1), substituted ''September 1, 1995'' for ''September 3, 1994''.

Subsec. (d). Pub. L. 103–440, § 208(3), added subsec. (d).

§ 20143. Locomotive visibility

(a) DEFINITION.—In this section, ''locomotive visibility'' means the enhancement of day and night visibility of the front end unit of a train, considering in particular the visibility and perspective of a driver of a motor vehicle at a grade crossing.

(b) INTERIM REGULATIONS.—Not later than December 31, 1992, the Secretary of Transportation shall prescribe temporary regulations identifying ditch, crossing, strobe, and oscillating lights as temporary locomotive visibility measures and authorizing and encouraging the installation and use of those lights. Subchapter II of chapter 5 of title 5 does not apply to a temporary regulation or to an amendment to a temporary regulation.

(c) REVIEW OF REGULATIONS.—The Secretary shall review the Secretary's regulations on locomotive visibility. Not later than December 31, 1993, the Secretary shall complete the current research of the Department of Transportation on locomotive visibility. In conducting the review, the Secretary shall collect relevant information from operational experience by rail carriers using enhanced visibility measures.

(d) REGULATORY PROCEEDING.—Not later than June 30, 1994, the Secretary shall begin a regulatory proceeding to prescribe final regulations requiring substantially enhanced locomotive visibility measures. In the proceeding, the Secretary shall consider at least—

(1) revisions to the existing locomotive headlight standards, including standards for placement and intensity;

(2) requiring the use of reflective material to enhance locomotive visibility;

(3) requiring the use of additional alerting lights, including ditch, crossing, strobe, and oscillating lights;

(4) requiring the use of auxiliary lights to enhance locomotive visibility when viewed from the side;

(5) the effect of an enhanced visibility measure on the vision, health, and safety of train crew members; and

(6) separate standards for self-propelled, push-pull, and multi-unit passenger operations without a dedicated head end locomotive.

(e) FINAL REGULATIONS.—(1) Not later than June 30, 1995, the Secretary shall prescribe final

regulations requiring enhanced locomotive visibility measures. The Secretary shall require that not later than December 31, 1997, a locomotive not excluded from the regulations be equipped with temporary visibility measures under subsection (b) of this section or the visibility measures the final regulations require.

(2) In prescribing regulations under paragraph (1) of this subsection, the Secretary may exclude a category of trains or rail operations from a specific visibility requirement if the Secretary decides the exclusion is in the public interest and is consistent with rail safety, including grade-crossing safety.

(3) A locomotive equipped with temporary visibility measures prescribed under subsection (b) of this section when final regulations are prescribed under paragraph (1) of this subsection is deemed to be complying with the final regulations for 4 years after the final regulations are prescribed.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 880.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20143(a)	45:431(u)(6).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, § 202(u); added Oct. 27, 1992, Pub. L. 102–533, § 14, 106 Stat. 3522.
20143(b)	45:431(u)(2) (1st, 2d sentences).	
20143(c)	45:431(u)(1).	
20143(d)	45:431(u)(3).	
20143(e)(1) ..	45:431(u)(5).	
20143(e)(2) ..	45:431(u)(4).	
20143(e)(3) ..	45:431(u)(2) (last sentence).	

In this section, the word ''visibility'' is substituted for ''conspicuity'' for clarity and consistency in this chapter.

In subsection (a), the words ''by means of lighting, reflective materials, or other means'' are omitted as surplus.

In subsection (b), the words ''those lights'' are substituted for ''such measures'' for clarity.

In subsection (c), the word ''Secretary's'' is substituted for ''Department of Transportation's'' because of 49:102(b). The word ''using'' is substituted for ''having . . . in service'' to eliminate unnecessary words.

In subsection (e)(2) and (3) of this section, the reference is to paragraph (1) of this subsection, rather than to subsection (d) of this section, because the regulations are prescribed under paragraph (1).

In subsection (e)(2), the words ''a category'' are substituted for ''and category'' to correct an apparent mistake in the source provision. See S. Rept. 102–990, 102d Cong., 2d Sess., p. 18 (1992).

In subsection (e)(3), the word ''full'' is omitted as surplus.

§ 20144. Blue signal protection for on-track vehicles

The Secretary of Transportation shall prescribe regulations applying blue signal protection to on-track vehicles where rest is provided.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 881.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20144	(uncodified).	June 22, 1988, Pub. L. 100–342, § 19(c), 102 Stat. 638.

The words ''prescribe regulations'' are substituted for ''within one year after the date of the enactment of this Act, amend part 218 of title 49, Code of Federal Regulations'' because the regulations to carry out this section have been prescribed.

§ 20145. Report on bridge displacement detection systems

Not later than 18 months after November 2, 1994, the Secretary of Transportation 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 concerning any action that has been taken by the Secretary on railroad bridge displacement detection systems.

(Added Pub. L. 103–440, title II, § 207(a), Nov. 2, 1994, 108 Stat. 4621; amended Pub. L. 104–287, § 5(48), (49), Oct. 11, 1996, 110 Stat. 3393.)

AMENDMENTS

1996—Pub. L. 104–287 substituted ''November 2, 1994'' for ''the date of enactment of the Federal Railroad Safety Authorization Act of 1994'' and ''Committee on Transportation and Infrastructure'' for ''Committee on Energy and Commerce''.

§ 20146. Institute for Railroad Safety

The Secretary of Transportation, in conjunction with a university or college having expertise in transportation safety, shall establish, within one year after November 2, 1994, an Institute for Railroad Safety. The Institute shall research, develop, fund, and test measures for reducing the number of fatalities and injuries relevant to railroad operations. There are authorized to be appropriated to the Secretary $1,000,000 for each of the fiscal years 1996 through 2000 to fund activities carried out under this section by the Institute, which shall report at least once each year on its use of such funds in carrying out such activities and the results thereof to the Secretary of Transportation and the Congress.

(Added Pub. L. 103–440, title II, § 210(a), Nov. 2, 1994, 108 Stat. 4621; amended Pub. L. 104–287, § 5(49), Oct. 11, 1996, 110 Stat. 3393.)

AMENDMENTS

1996—Pub. L. 104–287 substituted ''November 2, 1994'' for ''the date of enactment of the Federal Railroad Safety Authorization Act of 1994''.

§ 20147. Warning of civil liability

The Secretary of Transportation shall encourage railroad carriers to warn the public about potential liability for violation of regulations related to vandalism of railroad signs, devices, and equipment and to trespassing on railroad property.

(Added Pub. L. 103–440, title II, § 211(a), Nov. 2, 1994, 108 Stat. 4622.)

§ 20148. Railroad car visibility

(a) REVIEW OF RULES.—The Secretary of Transportation shall conduct a review of the Department of Transportation's rules with respect to railroad car visibility. As part of this review, the Secretary shall collect relevant data from operational experience by railroads having enhanced visibility measures in service.

(b) REGULATIONS.—If the review conducted under subsection (a) establishes that enhanced railroad car visibility would likely improve safety in a cost-effective manner, the Secretary shall initiate a rulemaking proceeding to prescribe regulations requiring enhanced visibility standards for newly manufactured and remanufactured railroad cars. In such proceeding the Secretary shall consider, at a minimum—

(1) visibility of railroad cars from the perspective of nonrailroad traffic;

(2) whether certain railroad car paint colors should be prohibited or required;

(3) the use of reflective materials;

(4) the visibility of lettering on railroad cars;

(5) the effect of any enhanced visibility measures on the health and safety of train crew members; and

(6) the cost/benefit ratio of any new regulations.

(c) EXCLUSIONS.—In prescribing regulations under subsection (b), the Secretary may exclude from any specific visibility requirement any category of trains or railroad operations if the Secretary determines that such an exclusion is in the public interest and is consistent with railroad safety.

(Added Pub. L. 103–440, title II, § 212(a), Nov. 2, 1994, 108 Stat. 4622.)

§ 20149. Coordination with the Department of Labor

The Secretary of Transportation shall consult with the Secretary of Labor on a regular basis to ensure that all applicable laws affecting safe working conditions for railroad employees are appropriately enforced to ensure a safe and productive working environment for the railroad industry.

(Added Pub. L. 103–440, title II, § 213(a), Nov. 2, 1994, 108 Stat. 4623.)

§ 20150. Positive train control system progress report

The Secretary of Transportation shall submit a report to the Congress on the development, deployment, and demonstration of positive train control systems by December 31, 1995.

(Added Pub. L. 103–440, title II, § 214(a), Nov. 2, 1994, 108 Stat. 4623.)

§ 20151. Railroad trespassing and vandalism prevention strategy

(a) EVALUATION OF EXISTING LAWS.—In consultation with affected parties, the Secretary of Transportation shall evaluate and review current local, State, and Federal laws regarding trespassing on railroad property and vandalism affecting railroad safety, and develop model prevention strategies and enforcement laws to be used for the consideration of State and local legislatures and governmental entities. The first such evaluation and review shall be completed within 1 year after November 2, 1994. The Secretary shall revise such model prevention strategies and enforcement codes periodically.

(b) OUTREACH PROGRAM.—The Secretary shall develop and maintain a comprehensive outreach program to improve communications among Federal railroad safety inspectors, State inspectors certified by the Federal Railroad Administration, railroad police, and State and local law enforcement officers, for the purpose of addressing trespassing and vandalism problems on railroad property, and strengthening relevant enforcement strategies. This program shall be designed to increase public and police awareness of the illegality of, dangers inherent in, and the extent of, trespassing on railroad rights-of-way, to develop strategies to improve the prevention of trespassing and vandalism, and to improve the enforcement of laws relating to railroad trespass, vandalism, and safety.

(c) MODEL LEGISLATION.—Within 18 months after November 2, 1994, the Secretary, after consultation with State and local governments and railroad carriers, shall develop and make available to State and local governments model State legislation providing for—

(1) civil or criminal penalties, or both, for vandalism of railroad equipment or property which could affect the safety of the public or of railroad employees; and

(2) civil or criminal penalties, or both, for trespassing on a railroad owned or leased right-of-way.

(Added Pub. L. 103–440, title II, § 219(a), Nov. 2, 1994, 108 Stat. 4625; amended Pub. L. 104–287, § 5(49), Oct. 11, 1996, 110 Stat. 3393.)

AMENDMENTS

1996—Subsecs. (a), (c). Pub. L. 104–287 substituted ''November 2, 1994'' for ''the date of enactment of the Federal Railroad Safety Authorization Act of 1994''.

§ 20152. Emergency notification of grade crossing problems

(a) PILOT PROGRAMS.—The Secretary of Transportation shall conduct a pilot program to demonstrate an emergency notification system utilizing a toll free telephone number that the public can use to convey to railroad carriers, either directly or through public safety personnel, information about malfunctions or other safety problems at railroad-highway grade crossings. The pilot program, at a minimum—

(1) shall include railroad-highway grade crossings in at least 2 States;

(2) shall include provisions for public education and awareness of the program; and

(3) shall require information to be posted at the railroad-highway grade crossing describing the emergency notification system and instructions on how to use the system.

The Secretary may, by grant, provide funding for the expense of information signs and public awareness campaigns necessary to demonstrate the notification system.

(b) REPORT.—The Secretary shall complete the pilot program not later than 24 months after November 2, 1994, and shall submit to the Congress not later than 30 months after November 2, 1994, an evaluation of the pilot program, together with findings as to the effectiveness of such emergency notification systems. The report shall compare and contrast the structure, cost, and effectiveness of the pilot program with other emergency notification systems in effect

within other States. Such evaluation shall include analyses of the safety benefits derived from the programs, cost effectiveness, and the burdens on participants, including railroad carriers and law enforcement personnel.

(Added Pub. L. 103–440, title III, § 301(a), Nov. 2, 1994, 108 Stat. 4626; amended Pub. L. 104–287, § 5(50), Oct. 11, 1996, 110 Stat. 3393.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–287 substituted ''November 2, 1994'' for ''the date of enactment of this section'' and ''November 2, 1994, an evaluation'' for ''that date an evaluation''.

§ 20153. Audible warnings at highway-rail grade crossings

(a) DEFINITIONS.—As used in this section—

(1) the term ''highway-rail grade crossing'' includes any street or highway crossing over a line of railroad at grade;

(2) the term ''locomotive horn'' refers to a train-borne audible warning device meeting standards specified by the Secretary of Transportation; and

(3) the term ''supplementary safety measure'' refers to a safety system or procedure, provided by the appropriate traffic control authority or law enforcement authority responsible for safety at the highway-rail grade crossing, that is determined by the Secretary to be an effective substitute for the locomotive horn in the prevention of highway-rail casualties. A traffic control arrangement that prevents careless movement over the crossing (e.g., as where adequate median barriers prevent movement around crossing gates extending over the full width of the lanes in the particular direction of travel), and that conforms to standards prescribed by the Secretary under this subsection, shall be deemed to constitute a supplementary safety measure. The following do not, individually or in combination, constitute supplementary safety measures within the meaning of this subsection: standard traffic control devices or arrangements such as reflectorized crossbucks, stop signs, flashing lights, flashing lights with gates that do not completely block travel over the line of railroad, or traffic signals.

(b) REQUIREMENT.—The Secretary of Transportation shall prescribe regulations requiring that a locomotive horn shall be sounded while each train is approaching and entering upon each public highway-rail grade crossing.

(c) EXCEPTION.—(1) In issuing such regulations, the Secretary may except from the requirement to sound the locomotive horn any categories of rail operations or categories of highway-rail grade crossings (by train speed or other factors specified by regulation)—

(A) that the Secretary determines not to present a significant risk with respect to loss of life or serious personal injury;

(B) for which use of the locomotive horn as a warning measure is impractical; or

(C) for which, in the judgment of the Secretary, supplementary safety measures fully compensate for the absence of the warning provided by the locomotive horn.

(2) In order to provide for safety and the quiet of communities affected by train operations, the Secretary may specify in such regulations that any supplementary safety measures must be applied to all highway-rail grade crossings within a specified distance along the railroad in order to be excepted from the requirement of this section.

(d) APPLICATION FOR WAIVER OR EXEMPTION.—Notwithstanding any other provision of this subchapter, the Secretary may not entertain an application for waiver or exemption of the regulations issued under this section unless such application shall have been submitted jointly by the railroad carrier owning, or controlling operations over, the crossing and by the appropriate traffic control authority or law enforcement authority. The Secretary shall not grant any such application unless, in the judgment of the Secretary, the application demonstrates that the safety of highway users will not be diminished.

(e) DEVELOPMENT OF SUPPLEMENTARY SAFETY MEASURES.—(1) In order to promote the quiet of communities affected by rail operations and the development of innovative safety measures at highway-rail grade crossings, the Secretary may, in connection with demonstration of proposed new supplementary safety measures, order railroad carriers operating over one or more crossings to cease temporarily the sounding of locomotive horns at such crossings. Any such measures shall have been subject to testing and evaluation and deemed necessary by the Secretary prior to actual use in lieu of the locomotive horn.

(2) The Secretary may include in regulations issued under this subsection special procedures for approval of new supplementary safety measures meeting the requirements of subsection (c)(1) of this section following successful demonstration of those measures.

(f) SPECIFIC RULES.—The Secretary may, by regulation, provide that the following crossings over railroad lines shall be subject, in whole or in part, to the regulations required under this section:

(1) Private highway-rail grade crossings.

(2) Pedestrian crossings.

(3) Crossings utilized primarily by nonmotorized vehicles and other special vehicles.

Regulations issued under this subsection shall not apply to any location where persons are not authorized to cross the railroad.

(g) ISSUANCE.—The Secretary shall issue regulations required by this section pertaining to categories of highway-rail grade crossings that in the judgment of the Secretary pose the greatest safety hazard to rail and highway users not later than 24 months following November 2, 1994. The Secretary shall issue regulations pertaining to any other categories of crossings not later than 48 months following November 2, 1994.

(h) IMPACT OF REGULATIONS.—The Secretary shall include in regulations prescribed under this section a concise statement of the impact of such regulations with respect to the operation of section 20106 of this title (national uniformity of regulation).

(i) REGULATIONS.—In issuing regulations under this section, the Secretary—

(1) shall take into account the interest of communities that—

(A) have in effect restrictions on the sounding of a locomotive horn at highway-rail grade crossings; or

(B) have not been subject to the routine (as defined by the Secretary) sounding of a locomotive horn at highway-rail grade crossings;

(2) shall work in partnership with affected communities to provide technical assistance and shall provide a reasonable amount of time for local communities to install supplementary safety measures, taking into account local safety initiatives (such as public awareness initiatives and highway-rail grade crossing traffic law enforcement programs) subject to such terms and conditions as the Secretary deems necessary, to protect public safety; and

(3) may waive (in whole or in part) any requirement of this section (other than a requirement of this subsection or subsection (j)) that the Secretary determines is not likely to contribute significantly to public safety.

(j) EFFECTIVE DATE OF REGULATIONS.—Any regulations under this section shall not take effect before the 365th day following the date of publication of the final rule.

(Added Pub. L. 103–440, title III, § 302(a), Nov. 2, 1994, 108 Stat. 4626; amended Pub. L. 104–264, title XII, § 1218(a), Oct. 9, 1996, 110 Stat. 3285; Pub. L. 104–287, § 5(51), Oct. 11, 1996, 110 Stat. 3393.)

AMENDMENTS

1996—Subsec. (g). Pub. L. 104–287 substituted ''November 2, 1994'' for ''the date of enactment of this section'' in two places.

Subsecs. (i), (j). Pub. L. 104–264 added subsecs. (i) and (j).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

CHAPTER 203—SAFETY APPLIANCES

Sec.
20301. Definition and nonapplication.
20302. General requirements.
20303. Moving defective and insecure vehicles needing repairs.
20304. Assumption of risk by employees.
20305. Inspection of mail cars.
20306. Exemption for technological improvements.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 103, 20105, 21302 of this title; title 31 section 3711.

§ 20301. Definition and nonapplication

(a) DEFINITION.—In this chapter, ''vehicle'' means a car, locomotive, tender, or similar vehicle.

(b) NONAPPLICATION.—This chapter does not apply to the following:

(1) a train of 4-wheel coal cars.

(2) a train of 8-wheel standard logging cars if the height of each car from the top of the rail to the center of the coupling is not more than 25 inches.

(3) a locomotive used in hauling a train referred to in clause (2) of this subsection when the locomotive and cars of the train are used only to transport logs.

(4) a car, locomotive, or train used on a street railway.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 881; Pub. L. 104–287, § 5(52), Oct. 11, 1996, 110 Stat. 3393.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20301(a)	45:8 (''trains, locomotives, tenders, cars, and similar vehicles'').	
	45:9 (3d sentence).	
20301(b)	45:6 (1st sentence proviso).	Mar. 2, 1893, ch. 196, § 6 (1st sentence proviso), 27 Stat. 532; restated Apr. 1, 1896, ch. 87, 29 Stat. 85.
	45:8 (words after 16th comma).	Mar. 2, 1903, ch. 976, § 1 (words after 23d comma), 32 Stat. 943.

Subsection (a) is added to avoid repeating the substance of the definition throughout this chapter.

In subsection (b), the words before clause (1) are substituted for ''*Provided*, That nothing in sections 1 to 7 of this title shall apply to'' in 45:6 because 45:9, 11, and 16 provide that 45:9 and 11–16 apply to the same vehicles and trains as 45:1–7 apply to. In clause (1), the word ''coal'' is added for clarity because of the decision of the Supreme Court in *Baltimore & Ohio Railway Co.* v. *Jackson*, 353 U.S. 325, 333 (1957) and the legislative history of 45:6 (proviso). See 24 Cong. Rec. 1477 (1893). The text of 45:8 (words after last comma) is omitted as unnecessary because of the definition of ''railroad'' in section 20102 of the revised title.

PUB. L. 104–287

This amends 49:20301(b) to clarify the restatement of 45:8 by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 881).

AMENDMENTS

1996—Subsec. (b)(4). Pub. L. 104–287 added par. (4).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

§ 20302. General requirements

(a) GENERAL.—Except as provided in subsection (c) of this section and section 20303 of this title, a railroad carrier may use or allow to be used on any of its railroad lines—

(1) a vehicle only if it is equipped with—

(A) couplers coupling automatically by impact, and capable of being uncoupled, without the necessity of individuals going between the ends of the vehicles;

(B) secure sill steps and efficient hand brakes; and

(C) secure ladders and running boards when required by the Secretary of Transportation, and, if ladders are required, secure handholds or grab irons on its roof at the top of each ladder;

(2) except as otherwise ordered by the Secretary, a vehicle only if it is equipped with secure grab irons or handholds on its ends and sides for greater security to individuals in coupling and uncoupling vehicles;

(3) a vehicle only if it complies with the standard height of drawbars required by regulations prescribed by the Secretary;

(4) a locomotive only if it is equipped with a power-driving wheel brake and appliances for operating the train-brake system; and

(5) a train only if—

(A) enough of the vehicles in the train are equipped with power or train brakes so that the engineer on the locomotive hauling the train can control the train's speed without the necessity of brake operators using the common hand brakes for that purpose; and

(B) at least 50 percent of the vehicles in the train are equipped with power or train brakes and the engineer is using the power or train brakes on those vehicles and on all other vehicles equipped with them that are associated with those vehicles in the train.

(b) REFUSAL TO RECEIVE VEHICLES NOT PROPERLY EQUIPPED.—A railroad carrier complying with subsection (a)(5)(A) of this section may refuse to receive from a railroad line of a connecting railroad carrier or a shipper a vehicle that is not equipped with power or train brakes that will work and readily interchange with the power or train brakes in use on the vehicles of the complying railroad carrier.

(c) COMBINED VEHICLES LOADING AND HAULING LONG COMMODITIES.—Notwithstanding subsection (a)(1)(B) of this section, when vehicles are combined to load and haul long commodities, only one of the vehicles must have hand brakes during the loading and hauling.

(d) AUTHORITY TO CHANGE REQUIREMENTS.—The Secretary may—

(1) change the number, dimensions, locations, and manner of application prescribed by the Secretary for safety appliances required by subsection (a)(1)(B) and (C) and (2) of this section only for good cause and after providing an opportunity for a full hearing;

(2) amend regulations for installing, inspecting, maintaining, and repairing power and train brakes only for the purpose of achieving safety; and

(3) increase, after an opportunity for a full hearing, the minimum percentage of vehicles in a train that are required by subsection (a)(5)(B) of this section to be equipped and used with power or train brakes.

(e) SERVICES OF ASSOCIATION OF AMERICAN RAILROADS.—In carrying out subsection (d)(2) and (3) of this section, the Secretary may use the services of the Association of American Railroads.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 881.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20302(a)(1)(A).	45:2.	Mar. 2, 1893, ch. 196, §§1–4, 27 Stat. 531; June 22, 1988, Pub. L. 100–342, §13(1)(A)–(D), 102 Stat. 630.
	45:8 (words before 16th comma).	Mar. 2, 1903, ch. 976, §1 (words before 23d comma), 32 Stat. 943; June 22, 1988, Pub. L. 100–342, §13(2)(A), 102 Stat. 631.
20302(a)(1)(B).	45:11 (words before proviso related to sill steps and hand brakes).	Apr. 14, 1910, ch. 160, §2, 36 Stat. 298; June 22, 1988, Pub. L. 100–342, §13(3)(A), 102 Stat. 631.
20302(a)(1)(C).	45:8 (words before 16th comma).	
	45:11 (words before proviso related to ladders, running boards, grab irons, and handholds).	
20302(a)(2) ..	45:4.	
	45:8 (words before 16th comma).	
	49 App.:1655(e)(1)(C).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(A)–(C), 80 Stat. 939.
20302(a)(3) ..	45:8 (words before 16th comma).	
	45:12 (last sentence).	Apr. 14, 1910, ch. 160, §3 (1st sentence words before semicolon, proviso, last sentence), 36 Stat. 298; June 22, 1988, Pub. L. 100–342, §13(3)(B), 102 Stat. 631.
	49 App.:1655(e)(1)(A).	
20302(a)(4) ..	45:1 (related to locomotives).	
	45:8 (words before 16th comma).	
20302(a)(5)(A).	45:1 (related to trains).	
20302(a)(5)(B).	45:9 (1st sentence words before last semicolon).	Mar. 2, 1903, ch. 976, §2 (1st sentence), 32 Stat. 943; Apr. 11, 1958, Pub. L. 85–375, §1(b)(1), (2), 72 Stat. 86.
	45:9 (3d sentence).	Mar. 2, 1903, ch. 976, 32 Stat. 943, §2 (2d–5th sentences); added Apr. 11, 1958, Pub. L. 85–375, §1(b)(3), 72 Stat. 86; June 22, 1988, Pub. L. 100–342, §13(2)(B), 102 Stat. 631.
20302(b)	45:3.	
	45:8 (words before 16th comma).	
20302(c)	45:11 (proviso).	
20302(d)(1) ..	45:12 (1st sentence words before semicolon).	
	49 App.:1655(e)(1)(C).	
20302(d)(2) ..	45:9 (2d sentence).	
	49 App.:1655(e)(1)(B).	
20302(d)(3) ..	45:9 (1st sentence words after last semicolon).	
	49 App.:1655(e)(1)(B).	
20302(e)	45:9 (4th sentence).	
	49 App.:1655(e)(1)(B).	

In subsection (a), before clause (1), the words ''Except as provided in subsection (c) of this section and section 20303 of this title'' are added to alert the reader to the exceptions restated in subsection (c) and section 20303. The words ''use or allow to be used'' are substituted for ''haul or permit to be hauled or used'' in 45:2 and 11, ''use'' in 45:4 and 12, ''use'' and ''run'' in 45:1, ''operated'' and ''used, hauled, or permitted to be used or hauled'' in 45:9, ''using . . . running . . . hauling or permitting to be hauled or used'' in 45:6, and ''used'' in 45:8 for consistency in this section and to eliminate unnecessary words. See *United States* v. *St. Louis Southwestern Ry. Co. of Texas*, 184 F. 28, 32 (5th Cir., 1910); *United States* v. *Chicago, M. & St. P. Ry. Co.*, 149 F. 486, 488 (D.S.D. Iowa, 1906). The words ''That from and after the first day of January, eighteen hundred and ninety-eight'', ''That on and after the first day of January, eighteen hundred and ninety-eight'', and ''That from and after the first day of July, eighteen hundred and ninety-five'' in sections 1, 2, and 4, respectively, of the Act of March 2, 1893 (ch. 196, 27 Stat. 531), are omitted as obsolete. The words ''a railroad carrier . . . on any of its railroad lines'' are substituted for ''any railroad . . . on its line'' in 45:1, ''any such railroad . . . on its line'' in 45:2, ''any railroad company'' in 45:4, ''railroads in the Territories and the District of Columbia . . . used on any railroad, and in the Territories and the District of Columbia'' in 45:8, ''Whenever, as provided in sections 1 to 7 of this title'' and ''any railroad'' in 45:9, and ''any railroad subject to the provisions of sections 11 to 16 of this title . . . on its line'' in 45:11 for

clarity, for consistency in the revised title, to eliminate unnecessary words, and because of the definition of ''railroad carrier'' in section 20102 of the revised title. See *Southern Ry. Co.* v. *United States*, 222 U.S. 20, 26 (1911). In clauses (1)–(3), the word ''vehicle'' is substituted for ''any car'' in 45:2, ''car'' in 45:4, ''all trains, locomotives, tenders, cars, and similar vehicles used on . . . all other locomotives, tenders, cars, and similar vehicles used in connection therewith'' in 45:8, and ''any car subject to the provisions of said sections . . . to wit: All cars'' in 45:11, and ''any car or vehicle'' in 45:12 for clarity, for consistency in the revised title, to eliminate unnecessary words, and because of the definition of ''vehicle'' in section 20301 of the revised title. In clause (1)(A), a comma is placed after the word ''uncoupled'' for clarity. See *Johnson* v. *Southern Pacific Co.*, 196 U.S. 1, 18 (1904). In clause (1)(C), the words ''by the Secretary of Transportation'' are added for clarity because of 45:12. In clause (3), the words ''required by regulations prescribed by the Secretary'' are substituted for ''the standard now fixed or the standard so prescribed . . . the standard so prescribed by the Secretary'' in 45:12 for clarity and to eliminate unnecessary words. The words ''Said Secretary is given authority, after hearing, to modify or change, and to prescribe the standard height of drawbars and to fix the time within which such modification or change shall become effective and obligatory'' are omitted as surplus because of 49:322(a). The words ''and prior to the time so fixed . . . and after the time so fixed'' are omitted as surplus. In clause (4), the word ''locomotive'' is substituted for ''any locomotive engine'' in 45:1 and ''all trains, locomotives, tenders, cars, and similar vehicles used on . . . all other locomotives, tenders, cars, and similar vehicles used in connection therewith'' in 45:8 for clarity and to eliminate unnecessary words. In clause (5)(B), the words ''the engineer is using the power or train brakes on those vehicles and on all other vehicles equipped with them that are associated with those vehicles in the train'' are substituted for ''their brakes used and operated by the engineer of the locomotive drawing such train; and all power-braked cars in such train which are associated together with said 50 per centum shall have their brakes so used and operated'' and ''all . . . locomotives, tenders, cars, and similar vehicles'' for clarity and consistency in this section. The text of section 2 (2d sentence) of the Act of March 2, 1903 (ch. 976, 32 Stat. 943), as added by section (1)(b) of the Power or Train Brakes Safety Appliance Act of 1958 (Public Law 85–375, 72 Stat. 86), is omitted as executed.

In subsection (b), the words ''A railroad carrier complying with subsection (a)(5)(A) of this section'' are substituted for ''any railroad shall have equipped a sufficient number of its cars so as to comply with the provisions of section 1 of this title'' in 45:3 and ''The provisions and requirements of sections 1 to 7 of this title shall be held to apply to railroads in the Territories and the District of Columbia'' in 45:8 for clarity, for consistency in this section, and because of the definition of ''railroad carrier'' in section 20102 of the revised title. The words ''a vehicle that is not equipped with power or train brakes that will work and readily interchange with the power or train brakes in use on the vehicles of the complying railroad carrier'' are substituted for ''any cars not equipped sufficiently, in accordance with said section, with such power or train brakes as will work and readily interchange with the brakes in use on its own cars, as required by sections 1 to 7 of this title'' in 45:3 for clarity and to eliminate unnecessary words.

In subsection (c), the words ''Notwithstanding subsection (a)(1)(B) of this section'' are added for clarity.

In subsection (d)(1), the words ''change . . . only for . . . and after'' are substituted for ''shall remain as the standards of equipment to be used on all cars subject to the provisions of sections 11 to 16 of this title, unless changed by an order of said Secretary of Transportation to be made after . . . and for'' for clarity and to eliminate unnecessary words. The text of section 3 (proviso) of the Act of April 14, 1910 (ch. 160, 36 Stat. 298), is omitted as obsolete.

In subsection (d)(2), the text of 45:9 (2d sentence words before proviso) is omitted as executed.

In subsection (d)(3), the words ''to more fully carry into effect the objects of said sections'' and ''from time to time'' are omitted as surplus. The words ''an opportunity for'' are added for clarity and consistency in the revised title and with other titles of the Code. The words ''equipped and used'' are substituted for ''operated'' for consistency in this section.

In subsection (e), the words ''and may avail himself of the advice and assistance of any department, commission, or board of the United States Government, and of State governments'' are omitted as unnecessary because of 49:301(6) and (7) and 322(c). The words ''but no official or employee of the United States shall receive any additional compensation for such service except as now permitted by law'' are omitted as surplus because of 5:5533.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 501, 20304 of this title.

§ 20303. Moving defective and insecure vehicles needing repairs

(a) GENERAL.—A vehicle that is equipped in compliance with this chapter whose equipment becomes defective or insecure nevertheless may be moved when necessary to make repairs, without a penalty being imposed under section 21302 of this title, from the place at which the defect or insecurity was first discovered to the nearest available place at which the repairs can be made—

(1) on the railroad line on which the defect or insecurity was discovered; or

(2) at the option of a connecting railroad carrier, on the railroad line of the connecting carrier, if not farther than the place of repair described in clause (1) of this subsection.

(b) USE OF CHAINS INSTEAD OF DRAWBARS.—A vehicle in a revenue train or in association with commercially-used vehicles may be moved under this section with chains instead of drawbars only when the vehicle contains livestock or perishable freight.

(c) LIABILITY.—The movement of a vehicle under this section is at the risk only of the railroad carrier doing the moving. This section does not relieve a carrier from liability in a proceeding to recover damages for death or injury of a railroad employee arising from the movement of a vehicle with equipment that is defective, insecure, or not maintained in compliance with this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 882.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20303(a)	45:13 (2d sentence proviso words before 1st semicolon).	Apr. 14, 1910, ch. 160, § 4 (2d sentence proviso), 36 Stat. 299; Jan. 14, 1983, Pub. L. 97–468, § 704, 96 Stat. 2580.
20303(b)	45:13 (2d sentence proviso words after last semicolon).	
20303(c)	45:13 (2d sentence proviso words between semicolons).	

In subsections (a) and (b), the word ''moved'' is substituted for ''hauled'' and ''hauling'' for consistency in this section.

In subsection (a), before clause (1), the words ''A vehicle that is equipped in compliance with this chapter'' are substituted for ''where any car shall have been properly equipped, as provided in sections 1 to 16 of this title'' to eliminate unnecessary words. The words ''while such car was being used by such carrier upon its line of railroad'' are omitted as surplus since this chapter only applies in the case of vehicles used by railroad carriers on their railroad lines. The word ''nevertheless'' is added for clarity. The words ''when necessary to make repairs'' are substituted for ''if any such movement is necessary to make such repairs and such repairs cannot be made except at any such repair point'' to eliminate unnecessary words. The words ''without a penalty being imposed under section 21302 of this title'' are substituted for ''without liability for the penalties imposed by this section or section 6 of this title'' because of the restatement.

In subsection (b), the words ''A vehicle . . . may be moved under this section . . . only when'' are substituted for ''and nothing in this proviso shall be construed to permit the hauling of defective cars . . . unless'' for clarity and to eliminate unnecessary words.

In subsection (c), the word ''hauling'' is omitted for consistency in this section. The word ''proceeding'' is substituted for ''remedial action'' for consistency in the revised title and to ensure that administrative, as well as court proceedings, are included. The words ''to recover damages'' are added for clarity. The words ''arising from'' are substituted for ''caused . . . by reason of or in connection with'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 501, 20302 of this title.

§ 20304. Assumption of risk by employees

An employee of a railroad carrier injured by a vehicle or train used in violation of section 20302(a)(1)(A), (2), (4), or (5)(A) of this title does not assume the risk of injury resulting from the violation, even if the employee continues to be employed by the carrier after learning of the violation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 883.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20304	45:7.	Mar. 2, 1893, ch. 196, §8, 27 Stat. 532; June 22, 1988, Pub. L. 100–342, §13(1)(H), 102 Stat. 631.
	45:8 (words before 16th comma).	Mar. 2, 1903, ch. 976, §1 (words before 23d comma), 32 Stat. 943; June 22, 1988, Pub. L. 100–342, §13(2)(A), 102 Stat. 631.

The words ''after learning of the violation'' are substituted for ''after the unlawful use of such locomotive, car, or train had been brought to his knowledge'' in 45:7 for clarity.

§ 20305. Inspection of mail cars

The Secretary of Transportation shall inspect the construction, adaptability, design, and condition of mail cars used on railroads in the United States. The Secretary shall make a report on the inspection and submit a copy of the report to the United States Postal Service.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 883.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20305	45:37.	May 27, 1908, ch. 200, §1 (6th par. last sentence under heading ''Interstate Commerce Commission''), 35 Stat. 325. Mar. 4, 1909, ch. 299, §1 (6th par. last sentence under heading ''Interstate Commerce Commission''), 35 Stat. 965.
	49 App.:1655(e)(1)(I), (J).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(I), (J), 80 Stat. 939.

The words ''United States Postal Service'' are substituted for ''Postmaster General'' because of sections 4(a) and 5(e) of the Postal Reorganization Act (Public Law 91–375, 84 Stat. 773, 775).

§ 20306. Exemption for technological improvements

(a) GENERAL.—Subject to subsection (b) of this section, the Secretary of Transportation may exempt from the requirements of this chapter railroad equipment or equipment that will be operated on rails, when those requirements preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under existing law.

(b) CONDITIONS FOR EXEMPTION.—The Secretary may grant an exemption under subsection (a) of this section only on the basis of—

(1) findings based on evidence developed at a hearing; or

(2) an agreement between national railroad labor representatives and the developer of the new equipment or technology.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 883.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20306	45:1013.	May 30, 1980, Pub. L. 96–254, §117, 94 Stat. 406.

In subsection (a), the words ''Notwithstanding any other provision of law'' and ''the mandatory requirements of'' are omitted as surplus. The words ''existing law'' are substituted for ''the existing statutes'' for consistency in the revised title.

In subsection (b), the words before clause (1) are added because of the restatement. Clause (1) is substituted for ''after a hearing and consistent with findings based upon evidence developed therein'' to eliminate unnecessary words. In clause (2), the words ''an agreement'' are substituted for ''expressions of agreement'' to eliminate unnecessary words.

CHAPTER 205—SIGNAL SYSTEMS

Sec.
20501. Definition.
20502. Requirements for installation and use.
20503. Amending regulations and changing requirements.
20504. Inspection, testing, and investigation.
20505. Reports of malfunctions and accidents.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 103, 501, 20105, 21302 of this title; title 31 section 3711.

§ 20501. Definition

In this chapter, ''signal system'' means a block signal system, an interlocking, automatic

train stop, train control, or cab-signal device, or a similar appliance, method, device, or system intended to promote safety in railroad operations.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 883.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20501	(no source).	

This section is added to eliminate the unnecessary repetition of the words used in the definition. The definition is derived from 49 App.:26(b)–(f).

§ 20502. Requirements for installation and use

(a) INSTALLATION.—(1) When the Secretary of Transportation decides after an investigation that it is necessary in the public interest, the Secretary may order a railroad carrier to install, on any part of its railroad line, a signal system that complies with requirements of the Secretary. The order must allow the carrier a reasonable time to complete the installation. A carrier may discontinue or materially alter a signal system required under this paragraph only with the approval of the Secretary.

(2) A railroad carrier ordered under paragraph (1) of this subsection to install a signal system on one part of its railroad line may not be held negligent for not installing the system on any part of its line that was not included in the order. If an accident or incident occurs on a part of the line on which the signal system was not required to be installed and was not installed, the use of the system on another part of the line may not be considered in a civil action brought because of the accident or incident.

(b) USE.—A railroad carrier may allow a signal system to be used on its railroad line only when the system, including its controlling and operating appurtenances—

(1) may be operated safely without unnecessary risk of personal injury; and

(2) has been inspected and can meet any test prescribed under this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 883.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20502(a)	49 App.:26(b).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 25(b); added Feb. 28, 1920, ch. 91, § 441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 835; Sept. 18, 1940, ch. 722, § 14(b), 54 Stat. 919; June 22, 1988, Pub. L. 100–342, § 17(2), (8), 102 Stat. 635, 636.
	49 App.:1655(e)(6)(A).	Oct. 15, 1966, Pub. L. 89–670, § 6(e)(6)(A), 80 Stat. 939.
20502(b)	49 App.:26(e).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 25(e); added Feb. 28, 1920, ch. 91, § 441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 836; Sept. 18, 1940, ch. 722, § 14(b), 54 Stat. 919; June 22, 1988, Pub. L. 100–342, § 17(5), 102 Stat. 636.

In this section, the words ''signal system'' are substituted for ''block signal system, interlocking, automatic train stop, train control, and/or cab-signal devices, and/or other similar appliances, methods, and systems intended to promote the safety of railroad operation'' and ''such systems, devices, appliances, or methods'' in 49 App.:26(b) and ''any system, device, or appliance covered by this section'' and ''such apparatus'' in 49 App.:26(e) because of the definition of ''signal system'' in section 20501 of the revised title.

In subsection (a)(1), the words ''decides after an investigation that it is necessary in the public interest'' are substituted for ''after investigation, if found necessary in the public interest'' for clarity. The word ''specifications'' is omitted as included in ''requirements''. The words ''The order must allow the carrier a reasonable time to complete the installation'' are substituted for ''such order to be issued and published a reasonable time (as determined by the Secretary) in advance of the date for its fulfillment'' to eliminate unnecessary words. The words ''a signal system required under this paragraph'' are substituted for ''That block signal systems, interlocking, automatic train stop, train control, and cab-signal devices in use on August 26, 1937, or such systems or devices hereinafter installed'' to eliminate unnecessary or obsolete words and because of the definition of ''signal system'' in section 20501 of the revised title.

In subsection (a)(2), the words ''railroad line'' are substituted for ''railroad'' for consistency in the revised title. The word ''civil'' is added for consistency in the revised title and with other titles of the United States Code. The words ''or incident'' are added for consistency in this part.

In subsection (b), before clause (1), the words ''may allow . . . only when'' are substituted for ''It shall be unlawful . . . unless . . . unless'' for clarity. In clause (1), the words ''in proper condition and'' and ''in the service to which it is put'' are omitted as being covered by the words of the clause. The words ''risk of personal injury'' are substituted for ''peril to life and limb'' for clarity. The words ''from time to time'' are omitted as surplus. In clause (2), the words ''prescribed under this chapter'' are substituted for ''in accordance with the provisions of this section'' and ''prescribed in the rules and regulations provided for in this section'' for consistency and to eliminate unnecessary words.

§ 20503. Amending regulations and changing requirements

The Secretary of Transportation may amend a regulation or change a requirement applicable to a railroad carrier for installing, maintaining, inspecting, or repairing a signal system under this chapter—

(1) when the carrier files with the Secretary a request for the amendment or change and the Secretary approves the request; or

(2) on the Secretary's own initiative for good cause shown.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 884.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20503	49 App.:26(c).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 25(c); added Feb. 28, 1920, ch. 91, § 441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 836; Sept. 18, 1940, ch. 722, § 14(b), 54 Stat. 919; June 22, 1988, Pub. L. 100–342, § 17(3), (8), 102 Stat. 635, 636.
	49 App.:1655(e)(6)(A).	Oct. 15, 1966, Pub. L. 89–670, § 6(e)(6)(A), 80 Stat. 939.

In this section, before clause (1), the text of 49 App.:26(c) (words before 2d proviso) is omitted as executed. The words ''The Secretary of Transportation may amend . . . change'' are substituted for ''and approved by the Secretary of Transportation'' and ''the Secretary may . . . revise, amend, or modify'' for clarity and to eliminate unnecessary words. The words

''regulation or . . . a requirement applicable to a railroad carrier for installing, maintaining, inspecting, or repairing a signal system under this chapter'' are substituted for ''rules, standards, and instructions herein provided for'' and ''rules, standards, and instructions prescribed by him under this subsection'' for clarity, for consistency in the revised title, and because of the restatement. Clause (1) is substituted for ''such railroad may from time to time change . . . but such change shall not take effect and the new rules, standards, and instructions be enforced until they shall have been filed with'' for clarity and to eliminate unnecessary words. The words ''and as revised, amended, or modified they shall be obligatory upon the railroad after a copy thereof shall have been served as above provided'' are omitted as being superseded by 5:ch. 5, subch. II.

§ 20504. Inspection, testing, and investigation

(a) SYSTEMS IN USE.—(1) The Secretary of Transportation may—

(A) inspect and test a signal system used by a railroad carrier; and

(B) decide whether the system is in safe operating condition.

(2) In carrying out this subsection, the Secretary may employ only an individual who—

(A) has no interest in a patented article required to be used on or with a signal system; and

(B) has no financial interest in a railroad carrier or in a concern dealing in railroad supplies.

(b) SYSTEMS SUBMITTED FOR INVESTIGATION AND TESTING.—The Secretary may investigate, test, and report on the use of and need for a signal system, without cost to the United States Government, when the system is submitted in completed shape for investigation and testing.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 884.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20504(a)	49 App.:26(d).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 25(d); added Feb. 28, 1920, ch. 91, § 441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 836; Sept. 18, 1940, ch. 722, § 14(b), 54 Stat. 919; June 22, 1988, Pub. L. 100–342, § 17(4), (8), 102 Stat. 635, 636.
	49 App.:1655(e)(6)(A).	Oct. 15, 1966, Pub. L. 89–670, § 6(e)(1)(I), (6)(A), 80 Stat. 939.
20504(b)	45:36.	May 27, 1908, ch. 200, § 1 (1st complete par. on p. 325), 35 Stat. 325.
	49 App.:1655(e)(1)(I).	

In subsection (a)(1)(B), the words ''safe operating condition'' are substituted for ''proper condition to operate and provide adequate safety'' to eliminate unnecessary words.

In subsection (a)(2), before clause (A), the text of 49:26(d) (2d sentence) is omitted because of 5:3101. The text of 49:26(d) (3d sentence) is omitted because of 5:ch. 33. The words ''In carrying out this subsection, the Secretary may employ'' are substituted for ''shall be used for such purpose'' for clarity. In clause (A), the words ''either directly or indirectly'' are omitted as surplus.

In subsection (b), the word ''experimentally'' is omitted as surplus. The words ''signal system'' are substituted for ''any appliances or systems intended to promote the safety of railway operation'' because of the definition of ''signal system'' in section 20501 of the revised title. The text of 45:36 (last sentence) is omitted because of 49:323.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 501 of this title.

§ 20505. Reports of malfunctions and accidents

In the way and to the extent required by the Secretary of Transportation, a railroad carrier shall report to the Secretary a failure of a signal system to function as intended. If the failure results in an accident or incident causing injury to an individual or property that is required to be reported under regulations prescribed by the Secretary, the carrier owning or maintaining the signal system shall report to the Secretary immediately in writing the fact of the accident or incident.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 884.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20505	49 App.:26(f) (words before last semicolon).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 25(f) (words before last semicolon); added Feb. 28, 1920, ch. 91, § 441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 836; Sept. 18, 1940, ch. 722, § 14(b), 54 Stat. 919; June 22, 1988, Pub. L. 100–342, § 17(6), (8), 102 Stat. 636.
	49 App.:1655(e)(6)(A).	Oct. 15, 1966, Pub. L. 89–670, § 6(e)(6)(A), 80 Stat. 939.

The words ''signal system'' are substituted for ''such systems, devices, or appliances'' because of the definition of ''signal system'' in section 20501 of the revised title. The word ''indicate'' is omitted as being included in ''function''. The words ''or incident'' are added for consistency in this part. The word ''individual'' is substituted for ''person'', and the word ''immediately'' is substituted for ''forthwith'', for consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20902 of this title.

CHAPTER 207—LOCOMOTIVES

Sec.
20701. Requirements for use.
20702. Inspections, repairs, and inspection and repair reports.
20703. Accident reports and investigations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 103, 20105, 21302 of this title; title 31 section 3711.

§ 20701. Requirements for use

A railroad carrier may use or allow to be used a locomotive or tender on its railroad line only when the locomotive or tender and its parts and appurtenances—

(1) are in proper condition and safe to operate without unnecessary danger of personal injury;

(2) have been inspected as required under this chapter and regulations prescribed by the Secretary of Transportation under this chapter; and

(3) can withstand every test prescribed by the Secretary under this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 885.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20701	45:23.	Feb. 17, 1911, ch. 103, §2, 36 Stat. 913; Mar. 4, 1915, ch. 169, §1, 38 Stat. 1192; restated June 7, 1924, ch. 355, §2, 43 Stat. 659; June 22, 1988, Pub. L. 100–342, §14(2), 102 Stat. 632.
	45:30 (1st sentence related to 45:23).	Mar. 4, 1915, ch. 169, §2 (1st sentence related to §2 of Act of Feb. 17, 1911), 38 Stat. 1192; Apr. 22, 1940, ch. 124, §2, 54 Stat. 148.
	49 App.:1655(e)(1)(E), (F).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(E), (F), 80 Stat. 939.

In this section, before clause (1), the words ''locomotive or tender . . . locomotive or tender and its parts and appurtenances'' are substituted for ''locomotive . . . locomotive, its boiler, tender, and all parts and appurtenances thereof'' in 45:23 and ''the provision of sections 22 to 29 . . . of this title as to the equipment of locomotives shall apply to and include the entire locomotive and tender and all their parts with the same force and effect as it applies to locomotive boilers and their appurtenances'' in 45:30 for clarity and because of the restatement. In clause (1), the words ''in the service to which the same are put'' and ''in the active service of such railroad'' in 45:23 are omitted as surplus. The words ''danger of personal injury'' are substituted for ''peril to life or limb'' for clarity and consistency in this part. In clause (2), the words ''from time to time'' are omitted as surplus. The words ''as required under this chapter and regulations prescribed by the Secretary of Transportation under this chapter'' are substituted for ''in accordance with the provisions of sections 22 to 29 and 31 to 34 of this title'' for clarity and consistency. In clause (3), the words ''prescribed by the Secretary under this chapter'' are substituted for ''prescribed in the rules and regulations hereinafter provided for'' for clarity and because of the restatement.

§ 20702. Inspections, repairs, and inspection and repair reports

(a) GENERAL.—The Secretary of Transportation shall—

(1) become familiar, so far as practicable, with the condition of every locomotive and tender and its parts and appurtenances;

(2) inspect every locomotive and tender and its parts and appurtenances as necessary to carry out this chapter, but not necessarily at stated times or at regular intervals; and

(3) ensure that every railroad carrier makes inspections of locomotives and tenders and their parts and appurtenances as required by regulations prescribed by the Secretary and repairs every defect that is disclosed by an inspection before a defective locomotive, tender, part, or appurtenance is used again.

(b) NONCOMPLYING LOCOMOTIVES, TENDERS, AND PARTS.—(1) When the Secretary finds that a locomotive, tender, or locomotive or tender part or appurtenance owned or operated by a railroad carrier does not comply with this chapter or a regulation prescribed under this chapter, the Secretary shall give the carrier written notice describing any defect resulting in noncompliance. Not later than 5 days after receiving the notice of noncompliance, the carrier may submit a written request for a reinspection. On receiving the request, the Secretary shall provide for the reinspection by an officer or employee of the Department of Transportation who did not make the original inspection. The reinspection shall be made not later than 15 days after the date the Secretary gives the notice of noncompliance.

(2) Immediately after the reinspection is completed, the Secretary shall give written notice to the railroad carrier stating whether the locomotive, tender, part, or appurtenance is in compliance. If the original finding of noncompliance is sustained, the carrier has 30 days after receipt of the notice to file an appeal with the Secretary. If the carrier files an appeal, the Secretary, after providing an opportunity for a proceeding, may revise or set aside the finding of noncompliance.

(3) A locomotive, tender, part, or appurtenance found not in compliance under this subsection may be used only after it is—

(A) repaired to comply with this chapter and regulations prescribed under this chapter; or

(B) found on reinspection or appeal to be in compliance.

(c) REPORTS.—A railroad carrier shall make and keep, in the way the Secretary prescribes by regulation, a report of every—

(1) inspection made under regulations prescribed by the Secretary; and

(2) repair made of a defect disclosed by such an inspection.

(d) CHANGES IN INSPECTION PROCEDURES.—A railroad carrier may change a rule or instruction of the carrier governing the inspection by the carrier of the locomotives and tenders and locomotive and tender parts and appurtenances of the carrier when the Secretary approves a request filed by the carrier to make the change.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 885.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20702(a)	45:29 (1st–3d sentences).	Feb. 17, 1911, ch. 103, §6, 36 Stat. 915; Apr. 22, 1940, ch. 124, §1(1)–(3) (related to §6 of Act of Feb. 17, 1911), 54 Stat. 148; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320; Oct. 10, 1980, Pub. L. 96–423, §13, 94 Stat. 1816; June 22, 1988, Pub. L. 100–342, §14(5), 102 Stat. 633.
	45:30 (1st sentence related to 45:29, last sentence).	Mar. 4, 1915, ch. 169, §2 (1st sentence related to §§5, 6 of Act of Feb. 17, 1911, last sentence), 38 Stat. 1192; Apr. 22, 1940, ch. 124, §2, 54 Stat. 148; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320.
	49 App.:1655(e)(1)(E)–(G).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(E)–(G), 80 Stat. 939.
20702(b)	45:29 (6th, last sentences).	
	45:30 (1st sentence related to 45:29)	
	49 App.:1655(e)(1)(E)–(G).	
20702(c)	45:29 (4th, 5th sentences).	
20702(d)	45:28.	Feb. 17, 1911, ch. 103, §5, 36 Stat. 914; Apr. 22, 1940, ch. 124, §1(1)–(3) (related to §5 of Act of Feb. 17, 1911), 54 Stat. 148; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320; June 22, 1988, Pub. L. 100–342, §14(4), 102 Stat. 633.
	45:30 (1st sentence related to 45:28).	
	49 App.:1655(e)(1)(E)–(G).	

In this section, the words ''locomotive and tender and its parts and appurtenances'' and ''locomotive, tender, or locomotive or tender part or appurtenance'' are substituted for ''locomotive boiler'' and ''boiler or boilers or apparatus pertaining thereto'' in 45:29 and ''the provision of sections 22 to 29 . . . of this title as to the equipment of locomotives shall apply to and include the entire locomotive and tender and all their parts with the same force and effect as it applies to locomotive boilers and their appurtenances'' in 45:30 for clarity and because of the restatement.

In subsection (a), before clause (1), the word ''shall'' is substituted for ''It shall be the duty of'', ''shall'', and ''His first duty shall be'' in 45:29 and ''shall . . . and shall have the same powers and duties with respect to all the parts and appurtenances of the locomotive and tender that they have with respect to the boiler of a locomotive and the appurtenances thereof'' in 45:30 for clarity and to eliminate unnecessary words. In clause (1), the words ''ordinarily housed or repaired in his district, and if any locomotive is ordinarily housed or repaired in two or more districts, then the director of locomotive inspection or an assistant shall make such division between inspectors as will avoid the necessity for duplication of work'' in 45:29 are omitted as obsolete because of Reorganization Plan No. 3 of 1965 (eff. July 27, 1965, 79 Stat. 1320) and 49 App.:1655(e)(1)(E)–(G). In clause (2), the words ''inspect . . . as necessary to carry out'' are substituted for ''make such personal inspection . . . from time to time as may be necessary to fully carry out the provisions of'' in 45:29 and ''inspect'' in 45:30 to eliminate unnecessary words. The words ''under his care'' and ''as may be consistent with his other duties'' in 45:29 are omitted as obsolete because of Reorganization Plan No. 3 of 1965 (eff. July 27, 1965, 79 Stat. 1320) and 49 App.:1655(e)(1)(E)–(G). The words ''but not necessarily'' are substituted for ''but he shall not be required to make such inspections'' in 45:29 to eliminate unnecessary words. In clause (3), the words ''inspections of locomotives and tenders and their parts and appurtenances as required by regulations prescribed by the Secretary'' are substituted for ''inspections in accordance with the rules and regulations established or approved by the Secretary of Transportation'' in 45:29 and ''the provision of sections 22 to 29 . . . of this title as to the equipment of locomotives shall apply to and include the entire locomotive and tender and all their parts with the same force and effect as it applies to locomotive boilers and their appurtenances'' in 45:30 for clarity and because of the restatement. The words ''a defective locomotive, tender, part, or appurtenance is used again'' are substituted for ''the boiler or boilers or appurtenances pertaining thereto are again put in service'' in 45:29 for consistency in this subsection. The text of 45:30 (last sentence) is omitted as obsolete because of Reorganization Plan No. 3 of 1965 (eff. July 27, 1965, 79 Stat. 1320), 49 App.:1655(e)(1)(E)–(G), and 5:ch. 33.

In subsection (b), the word ''reinspection'' is substituted for ''reexamination'' for consistency in this chapter.

In subsection (b)(1), the words ''in the performance of his duty'' in 45:29 are omitted as surplus. The words ''owned or operated by a railroad carrier'' are added for clarity and because of the words ''owning or operating such locomotive'' in 45:29 (last sentence). The words ''does not comply with this chapter or a regulation prescribed under this chapter'' are substituted for ''not conforming to the requirements of the law or the rules and regulations established and approved as hereinbefore stated'' in 45:29 to eliminate unnecessary words and because of the restatement. The words ''describing any defect resulting in noncompliance'' are substituted for ''that the locomotive is not in serviceable condition . . . because of defects set out and described in said notice'' for consistency in this section and to eliminate unnecessary words. The words ''written request for a reinspection'' are substituted for ''appeal . . . by telegraph or by letter to have said boiler reexamined'' for clarity and to eliminate unnecessary words. The words ''an officer or employee of the Department of Transportation'' are substituted for ''one of the assistant directors of locomotive inspection or any district inspector'' because of Reorganization Plan No. 3 of 1965 (eff. July 27, 1965, 79 Stat. 1320) and 49 App.:1655(e)(1)(E)–(G).

In subsection (b)(2), the words ''Immediately after the reinspection is completed'' are substituted for ''upon such reexamination the boiler is found in serviceable condition . . . immediately'' and ''but if the reexamination of said boiler sustains the decision of the district inspector . . . at once'' in 45:29 to eliminate unnecessary words. The words ''give written notice . . . stating whether the locomotive, tender, part, or appurtenance is in compliance'' are substituted for ''in writing'' and ''that the appeal from the decision of the inspector is dismissed'' for clarity and consistency in this subsection. The words ''after providing an opportunity for a proceeding'' are substituted for ''after hearing'' as being more appropriate and for consistency in the revised title and with other titles of the United States Code. The words ''may revise or set aside the finding of noncompliance'' are substituted for ''shall have power to revise, modify, or set aside such action . . . and declare that said locomotive is in serviceable condition and authorize the same to be operated'' to eliminate unnecessary words.

Subsection (b)(3) is substituted for ''and thereafter such boiler shall not be used until in serviceable condition'' and ''whereupon such boiler may be put into service without further delay'' in 45:29 and the text of 45:29 (last proviso) for clarity and to eliminate unnecessary words.

In subsection (c), before clause (1), the words ''make and keep'' are substituted for ''keep'' for clarity.

Subsection (d) is substituted for the text of 45:28 (1st sentence last proviso) and 30 (1st sentence related to 45:28) for clarity and because of the restatement.

§ 20703. Accident reports and investigations

(a) ACCIDENT REPORTS AND SCENE PRESERVATION.—When the failure of a locomotive, tender, or locomotive or tender part or appurtenance results in an accident or incident causing serious personal injury or death, the railroad carrier owning or operating the locomotive or tender—

(1) immediately shall file with the Secretary of Transportation a written statement of the fact of the accident or incident; and

(2) when the locomotive is disabled to the extent it cannot be operated under its own power, shall preserve intact all parts affected by the accident or incident, if possible without interfering with traffic, until an investigation of the accident or incident is completed.

(b) INVESTIGATIONS.—The Secretary shall—

(1) investigate each accident and incident reported under subsection (a) of this section;

(2) inspect each part affected by the accident or incident; and

(3) make a complete and detailed report on the cause of the accident or incident.

(c) PUBLICATION AND USE OF INVESTIGATION REPORTS.—When the Secretary considers publication to be in the public interest, the Secretary may publish a report of an investigation made under this section, stating the cause of the accident or incident and making appropriate recommendations. No part of a report may be admitted into evidence or used in a civil action for damages resulting from a matter mentioned in the report.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 886.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20703(a)	45:30 (1st sentence related to 45:32).	Mar. 4, 1915, ch. 169, §2 (1st sentence related to §8 of Act of Feb. 17, 1911), 38 Stat. 1192; Apr. 22, 1940, ch. 124, §2, 54 Stat. 148; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320.
	45:32 (1st, 3d sentences).	Feb. 17, 1911, ch. 103, §8, 36 Stat. 916; Apr. 22, 1940, ch. 124, §1(1)–(3) (related to §8 of Act of Feb. 17, 1911), 54 Stat. 148; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320; June 22, 1988, Pub. L. 100–342, §14(6), 102 Stat. 633.
	49 App.:1655(e)(1)(E)–(G).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(E)–(G), 80 Stat. 939.
20703(b)	45:32 (2d, last sentences).	
20703(c)	45:33. 49 App.:1655(e)(1)(E)–(G).	

In this section, the words ''or incident'' and ''and incident'' are added for consistency in this part.

In subsection (a), before clause (1), the words ''locomotive, tender, or locomotive or tender part or appurtenance . . . the locomotive or tender'' are substituted for ''locomotive boiler or its appurtenances . . . said locomotive'' in 45:32 and the text of 45:30 (1st sentence related to 45:32) for clarity and because of the restatement. The word ''personal'' is substituted for ''to one or more persons'' to eliminate unnecessary words. In clause (1), the word ''immediately'' is substituted for ''forthwith'' for consistency in this chapter. In clause (2), the words ''operated under its own power'' are substituted for ''cannot be run by its own steam'' for clarity. The words ''hindrance or'' are omitted as being included in ''interfering''. The word ''investigation'' is substituted for ''inspection'' for consistency in this section.

In subsection (c), the words ''at any time call upon the director of locomotive inspection for a report of any accident embraced in section 32 of this title, and upon the receipt of said report'' are omitted as obsolete because of Reorganization Plan No. 3 of 1965 (eff. July 27, 1965, 79 Stat. 1320) and 49 App.:1655(e)(1)(E)–(G). The text of 45:33 (2d sentence) is omitted as surplus. The words ''civil action'' are substituted for ''suit or action'' for consistency in the revised title and with other titles of the United States Code. The words ''resulting from'' are substituted for ''growing out of'' for clarity. The words ''or investigation'' are omitted as unnecessary because of the restatement.

CHAPTER 209—ACCIDENTS AND INCIDENTS

Sec.
20901. Reports.
20902. Investigations.
20903. Reports not evidence in civil actions for damages.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 103, 20105, 21302 of this title.

§ 20901. Reports

(a) GENERAL REQUIREMENTS.—Not later than 30 days after the end of each month, a railroad carrier shall file a report with the Secretary of Transportation on all accidents and incidents resulting in injury or death to an individual or damage to equipment or a roadbed arising from the carrier's operations during the month. The report shall be under oath and shall state the nature, cause, and circumstances of each reported accident or incident. If a railroad carrier assigns human error as a cause, the report shall include, at the option of each employee whose error is alleged, a statement by the employee explaining any factors the employee alleges contributed to the accident or incident.

(b) MONETARY THRESHOLD FOR REPORTING.—(1) In establishing or changing a monetary threshold for the reporting of a railroad accident or incident, the Secretary shall base damage cost calculations only on publicly available information obtained from—

(A) the Bureau of Labor Statistics; or

(B) another department, agency, or instrumentality of the United States Government if the information has been collected through objective, statistically sound survey methods or has been previously subject to a public notice and comment process in a proceeding of a Government department, agency, or instrumentality.

(2) If information is not available as provided in paragraph (1)(A) or (B) of this subsection, the Secretary may use any other source to obtain the information. However, use of the information shall be subject to public notice and an opportunity for written comment.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 886.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20901(a)	45:38 (1st sentence).	May 6, 1910, ch. 208, §1 (1st sentence), 36 Stat. 350; restated Sept. 13, 1960, Pub. L. 86–762, §1, 74 Stat. 903; June 22, 1988, Pub. L. 100–342, §15(1)(A), (B), 102 Stat. 633.
	45:39 (related to time of filing report).	May 6, 1910, ch. 208, §2 (related to time of filing report), 36 Stat. 351; Jan. 3, 1975, Pub. L. 93–633, §204(b), 88 Stat. 2166; June 22, 1988, Pub. L. 100–342, §15(2), 102 Stat. 634.
	45:43a.	June 22, 1988, Pub. L. 100–342, §24, 102 Stat. 639.
	49 App.:1655(e)(1)(K).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(K), 80 Stat. 939.
20901(b)	45:38 (note).	Sept. 3, 1992, Pub. L. 102–365, §15, 106 Stat. 981.

In this section, the words ''accident'' and ''incident'' are used, and the words ''collision'' and ''derailment'' are omitted, for consistency in this part. The words ''the general manager, superintendent, or other proper officer of'' in 45:38 are omitted as surplus because any duty of a railroad carrier must necessarily be carried out through its proper officers and agents. The text of 45:38 (1st sentence proviso) is omitted as executed.

In subsection (b), the words ''or incident'' are added for consistency. The text of section 15(c) of the Rail Safety Enforcement and Review Act (Pub. L. 102–365, 106 Stat. 981) is omitted as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20903, 21311 of this title.

§ 20902. Investigations

(a) GENERAL AUTHORITY.—The Secretary of Transportation, or an impartial investigator authorized by the Secretary, may investigate—

(1) an accident or incident resulting in serious injury to an individual or to railroad property, occurring on the railroad line of a railroad carrier; and

(2) an accident or incident reported under section 20505 of this title.

(b) OTHER DUTIES AND POWERS.—In carrying out an investigation, the Secretary or authorized investigator may subpena witnesses, require the production of records, exhibits, and other evidence, administer oaths, and take testimony. If the accident or incident is investigated by a commission of the State in which it occurred, the Secretary, if convenient, shall carry out the investigation at the same time as, and in coordination with, the commission's investigation. The railroad carrier on whose railroad line the accident or incident occurred shall provide reasonable facilities to the Secretary for the investigation.

(c) REPORTS.—When in the public interest, the Secretary shall make a report of the investigation, stating the cause of the accident or incident and making recommendations the Secretary considers appropriate. The Secretary shall publish the report in a way the Secretary considers appropriate.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 887.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20902(a)	45:40 (1st sentence, 2d sentence words between 1st and 2d commas).	May 6, 1910, ch. 208, §3, 36 Stat. 351; June 22, 1988, Pub. L. 100–342, §15(3), 102 Stat. 634.
	49 App.:26(f) (words after last semicolon).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(f) (words after last semicolon); added Feb. 28, 1920, ch. 91, §441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 836; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919.
	49 App.:1655(e)(1)(K).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(K), 80 Stat. 939.
20902(b)	45:40 (2d sentence less words between 1st and 2d commas).	
20902(c)	45:40 (3d, last sentences).	

In this section, the words ''accident'' and ''incident'' are used, and the words ''collision'' and ''derailment'' are omitted, for consistency in this part.

Subsection (a)(2) is substituted for the text of 49 App.:26(f) (words after last semicolon) for clarity.

In subsection (b), the words ''In carrying out an investigation'' are substituted for ''shall have authority to investigate such collisions, derailments, or other accidents aforesaid, and all the attending facts, conditions, and circumstances, and for that purpose'' to eliminate unnecessary words. The words ''books, papers, orders, memoranda'' are omitted as being included in ''papers''. The words ''in coordination with'' are substituted for ''in connection with'' for clarity. The words ''The railroad carrier on whose railroad line the accident or incident occurred'' are added for clarity.

In subsection (c), the words ''When in the public interest'' are substituted for ''when he deems it to the public interest'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20903 of this title.

§ 20903. Reports not evidence in civil actions for damages

No part of an accident or incident report filed by a railroad carrier under section 20901 of this title or made by the Secretary of Transportation under section 20902 of this title may be used in a civil action for damages resulting from a matter mentioned in the report.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 887.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20903	45:41.	May 6, 1910, ch. 208, §4, 36 Stat. 351.

The words ''civil action'' are substituted for ''suit or action'' for consistency in the revised title and with other titles of the United States Code.

CHAPTER 211—HOURS OF SERVICE

Sec.
21101. Definitions.
21102. Nonapplication and exemption.
21103. Limitations on duty hours of train employees.
21104. Limitations on duty hours of signal employees.
21105. Limitations on duty hours of dispatching service employees.
21106. Limitations on employee sleeping quarters.
21107. Maximum duty hours and subjects of collective bargaining.
21108. Pilot projects.

AMENDMENTS

1994—Pub. L. 103–440, title II, §203(b), Nov. 2, 1994, 108 Stat. 4620, added item 21108.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 103, 501, 20105, 21303 of this title.

§ 21101. Definitions

In this chapter—

(1) ''designated terminal'' means the home or away-from-home terminal for the assignment of a particular crew.

(2) ''dispatching service employee'' means an operator, train dispatcher, or other train employee who by the use of an electrical or mechanical device dispatches, reports, transmits, receives, or delivers orders related to or affecting train movements.

(3) ''employee'' means a dispatching service employee, a signal employee, or a train employee.

(4) ''signal employee'' means an individual employed by a railroad carrier who is engaged in installing, repairing, or maintaining signal systems.

(5) ''train employee'' means an individual engaged in or connected with the movement of a train, including a hostler.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 888.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21101(1)	45:61(b)(4) (1st sentence).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §1(b)(4) (1st sentence); added Nov. 2, 1978, Pub. L. 95–574, §6, 92 Stat. 2461.
21101(2)–(4)	(no source).	
21101(5)	45:61(b)(2).	Mar. 4, 1907, ch. 2939, §1(b)(2), 34 Stat. 1415; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 463; July 8, 1976, Pub. L. 94–348, §4(c), 90 Stat. 818.

Clause (2) is added to avoid the necessity of repeating the substance of the definition every time a ''dispatching service employee'' is referred to in this chapter. The language in clause (2) is derived from 45:63.

Clause (3) is added to provide a definition of ''employee'' when the source provisions apply to all types of employees covered by this chapter.

Clause (4) is added to avoid the necessity of repeating the substance of the definition every time a ''signal employee'' is referred to in this chapter. The language in clause (4) is derived from 45:63a.

In clause (5), the words ''train employee'' are substituted for ''employee'' to distinguish the term from the terms ''dispatching service employee'' and ''signal employee''. The word ''actually'' is omitted as surplus.

§ 21102. Nonapplication and exemption

(a) GENERAL.—This chapter does not apply to a situation involving any of the following:

(1) a casualty.

(2) an unavoidable accident.

(3) an act of God.

(4) a delay resulting from a cause unknown and unforeseeable to a railroad carrier or its officer or agent in charge of the employee when the employee left a terminal.

(b) EXEMPTION.—The Secretary of Transportation may exempt a railroad carrier having not more than 15 employees covered by this chapter from the limitations imposed by this chapter. The Secretary may allow the exemption after a full hearing, for good cause shown, and on deciding that the exemption is in the public interest and will not affect safety adversely. The exemption shall be for a specific period of time and is subject to review at least annually. The exemption may not authorize a carrier to require or allow its employees to be on duty more than a total of 16 hours in a 24-hour period.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 888.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21102(a)	45:63a(d) (related to 45:64a).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, § 3A(d) (related to § 5); added July 8, 1976, Pub. L. 94–348, § 4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100–342, § 16(4), 102 Stat. 635.
	45:64a(d).	Mar. 4, 1907, ch. 2939, § 5(d), 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91–169, § 1, 83 Stat. 464; June 22, 1988, Pub. L. 100–342, § 16(6)(D), 102 Stat. 635.
21102(b)	45:63a(d) (related to 45:64a).	
	45:64a(e).	Mar. 4, 1907, ch. 2939, § 5(e), 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91–169, § 1, 83 Stat. 464.

In subsection (b), the words ''with respect to one or more of its employees'' are omitted as surplus because the authority to exempt a railroad carrier includes the authority to exempt only some of the employees of the carrier. The words ''carrier to require or allow its employees to be on duty'' are substituted for ''any railroad described in this section to work its employees'' for clarity and consistency in this chapter.

§ 21103. Limitations on duty hours of train employees

(a) GENERAL.—Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow a train employee to remain or go on duty—

(1) unless that employee has had at least 8 consecutive hours off duty during the prior 24 hours; or

(2) after that employee has been on duty for 12 consecutive hours, until that employee has had at least 10 consecutive hours off duty.

(b) DETERMINING TIME ON DUTY.—In determining under subsection (a) of this section the time a train employee is on or off duty, the following rules apply:

(1) Time on duty begins when the employee reports for duty and ends when the employee is finally released from duty.

(2) Time the employee is engaged in or connected with the movement of a train is time on duty.

(3) Time spent performing any other service for the railroad carrier during a 24-hour period in which the employee is engaged in or connected with the movement of a train is time on duty.

(4) Time spent in deadhead transportation to a duty assignment is time on duty, but time spent in deadhead transportation from a duty assignment to the place of final release is neither time on duty nor time off duty.

(5) An interim period available for rest at a place other than a designated terminal is time on duty.

(6) An interim period available for less than 4 hours rest at a designated terminal is time on duty.

(7) An interim period available for at least 4 hours rest at a place with suitable facilities for food and lodging is not time on duty when the employee is prevented from getting to the employee's designated terminal by any of the following:

(A) a casualty.

(B) a track obstruction.

(C) an act of God.

(D) a derailment or major equipment failure resulting from a cause that was unknown and unforeseeable to the railroad carrier or its officer or agent in charge of that employee when that employee left the designated terminal.

(c) EMERGENCIES.—A train employee on the crew of a wreck or relief train may be allowed to remain or go on duty for not more than 4 additional hours in any period of 24 consecutive hours when an emergency exists and the work of the crew is related to the emergency. In this subsection, an emergency ends when the track is cleared and the railroad line is open for traffic.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 888.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21103(a)	45:62(a)(1), (2).	Mar. 4, 1907, ch. 2939, § 2(a)(1), (2), 34 Stat. 1416; restated Dec. 26, 1969, Pub. L. 91–169, § 1, 83 Stat. 463; July 8, 1976, Pub. L. 94–348, § 4(a)(1), (2), 90 Stat. 818; June 22, 1988, Pub. L. 100–342, § 16(2), 102 Stat. 634.
21103(b)	45:61(b)(3).	Mar. 4, 1907, ch. 2939, §§ 1(b)(3), 2(b), 34 Stat. 1415, 1416; restated Dec. 26, 1969, Pub. L. 91–169, § 1, 83 Stat. 463.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	45:61(b)(4) (last sentence).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §1(b)(4) (last sentence); added Nov. 2, 1978, Pub. L. 95–574, §6, 92 Stat. 2461; June 22, 1988, Pub. L. 100–342, §16(1)(C), 102 Stat. 634.
21103(c)	45:62(b). 45:62(c).	Mar. 4, 1907, ch. 2939, §2(c), 34 Stat. 1416; Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 464; restated July 8, 1976, Pub. L. 94–348, §4(b), 90 Stat. 818.

In subsection (a), before clause (1), the words ''Except as provided in subsection (c) of this section'' are added to alert the reader to the exception restated in subsection (c). The words ''train employee'' are substituted for ''employee'' because of the definition of ''train employee'' in section 21101 of the revised title. In clause (2), the words ''12 consecutive hours'' are substituted for ''continuously . . . fourteen hours'' and ''except that, effective upon the expiration of the two-year period beginning on the effective date of this paragraph, such fourteen-hour duty period shall be reduced to twelve hours'' because the 2-year period has ended.

In subsection (b), the words before paragraph (1) are added as related to 45:61(b)(3) and (4) (last sentence) and substituted for ''In determining, for the purposes of subsection (a), the number of hours an employee is on duty'' in 45:62(b) for clarity. In paragraphs (2) and (3), the word ''actually'' is omitted as surplus. In paragraph (4), the words ''neither time on duty nor time off duty'' are substituted for ''time off duty'' for clarity and consistency with the source provisions restated in 21104(b)(3) and (4) of the revised title. In paragraph (7), before clause (A), the words ''between designated terminals'' are omitted as surplus. The text of 45:61(b)(3)(E) is omitted as surplus because of the restatement.

In subsection (c), the words ''A train employee on'' are added for consistency in this section. The word ''actual'' is omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21105 of this title.

§ 21104. Limitations on duty hours of signal employees

(a) GENERAL.—(1) In paragraph (2)(C) of this subsection, ''24-hour period'' means the period beginning when a signal employee reports for duty immediately after 8 consecutive hours off duty or, when required under paragraph (2)(B) of this subsection, after 10 consecutive hours off duty.

(2) Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow a signal employee to remain or go on duty—

(A) unless that employee has had at least 8 consecutive hours off duty during the prior 24 hours;

(B) after that employee has been on duty for 12 consecutive hours, until that employee has had at least 10 consecutive hours off duty; or

(C) after that employee has been on duty a total of 12 hours during a 24-hour period, or after the end of that 24-hour period, whichever occurs first, until that employee has had at least 8 consecutive hours off duty.

(b) DETERMINING TIME ON DUTY.—In determining under subsection (a) of this section the time a signal employee is on duty or off duty, the following rules apply:

(1) Time on duty begins when the employee reports for duty and ends when the employee is finally released from duty.

(2) Time spent performing any other service for the railroad carrier during a 24-hour period in which the employee is engaged in installing, repairing, or maintaining signal systems is time on duty.

(3) Time spent returning from a trouble call, whether the employee goes directly to the employee's residence or by way of the employee's headquarters, is neither time on duty nor time off duty, except that up to one hour of that time spent returning from the final trouble call of a period of continuous or broken service is time off duty.

(4) If, at the end of scheduled duty hours, an employee has not completed the trip from the final outlying worksite of the duty period to the employee's headquarters or directly to the employee's residence, the time after the scheduled duty hours necessarily spent in completing the trip to the residence or headquarters is neither time on duty nor time off duty.

(5) If an employee is released from duty at an outlying worksite before the end of the employee's scheduled duty hours to comply with this section, the time necessary for the trip from the worksite to the employee's headquarters or directly to the employee's residence is neither time on duty nor time off duty.

(6) Time spent in transportation on an on-track vehicle, including time referred to in paragraphs (3)–(5) of this subsection, is time on duty.

(7) A regularly scheduled meal period or another release period of at least 30 minutes but not more than one hour is time off duty and does not break the continuity of service of the employee under this section, but a release period of more than one hour is time off duty and does break the continuity of service.

(c) EMERGENCIES.—A signal employee may be allowed to remain or go on duty for not more than 4 additional hours in any period of 24 consecutive hours when an emergency exists and the work of that employee is related to the emergency. In this subsection, an emergency ends when the signal system is restored to service.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 889.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21104(a)	45:63a(a) (1st sentence).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(a) (1st sentence), (b); added July 8, 1976, Pub. L. 94–348, §4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100–342, §16(4), 102 Stat. 635.
	45:63a(a) (2d–last sentences).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(a) (2d–last sentences); added Nov. 2, 1978, Pub. L. 95–574, §4(a), 92 Stat. 2459.
21104(b)	45:63a(b). 45:63a(c).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415; §3A(c); added July 8, 1976, Pub. L. 94–348, §4(d), 90 Stat. 819; restated Nov. 2, 1978, Pub. L. 95–574, §4(b), 92 Stat. 2460.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21104(c)	45:63a(f).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(f); added July 8, 1976, Pub. L. 94–348, §4(d), 90 Stat. 819.

In this section, the words ''signal employee'' are substituted for ''an individual employed by the railroad who is engaged in installing, repairing or maintaining signal systems'' and ''an individual described in paragraph (1)'' in 45:63a(a), ''individual'' in 45:63a(b) and (c), and ''individual engaged in installing, repairing, or maintaining signal systems'' in 45:63a(f) because of the definition of ''signal employee'' in section 21101 of the revised title.

Subsection (a)(1) is substituted for 45:63a(a) (last sentence) for clarity and because of the restatement.

In subsection (a)(2), before clause (A), the words ''Except as provided in subsection (c) of this section'' are added to alert the reader to the exception restated in subsection (c). The text of 45:63a(a) (2d sentence) is omitted as surplus.

In subsection (b), the words before paragraph (1) are added as related to 45:63a(c) and substituted for ''In determining for the purposes of subsection (a) of this section the number of hours an individual is on duty'' for clarity. In paragraph (2), the word ''actually'' is omitted as surplus.

In subsection (c), the word ''actual'' is omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21105 of this title.

§ 21105. Limitations on duty hours of dispatching service employees

(a) APPLICATION.—This section applies, rather than section 21103 or 21104 of this title, to a train employee or signal employee during any period of time the employee is performing duties of a dispatching service employee.

(b) GENERAL.—Except as provided in subsection (d) of this section, a dispatching service employee may not be required or allowed to remain or go on duty for more than—

(1) a total of 9 hours during a 24-hour period in a tower, office, station, or place at which at least 2 shifts are employed; or

(2) a total of 12 hours during a 24-hour period in a tower, office, station, or place at which only one shift is employed.

(c) DETERMINING TIME ON DUTY.—Under subsection (b) of this section, time spent performing any other service for the railroad carrier during a 24-hour period in which the employee is on duty in a tower, office, station, or other place is time on duty in that tower, office, station, or place.

(d) EMERGENCIES.—When an emergency exists, a dispatching service employee may be allowed to remain or go on duty for not more than 4 additional hours during a period of 24 consecutive hours for not more than 3 days during a period of 7 consecutive days.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 890.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21105(a)	45:62(d).	Mar. 4, 1907, ch. 2939, §2(d), 34 Stat. 1416; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 464.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	45:63a(e).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(e); added July 8, 1976, Pub. L. 94–348, §4(d), 90 Stat. 819.
21105(b)	45:63(a).	Mar. 4, 1907, ch. 2939, §3, 34 Stat. 1416; May 4, 1916, ch. 109, §1, 39 Stat. 61; Aug. 14, 1957, Pub. L. 85–135, §2, 71 Stat. 352; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 464; June 22, 1988, Pub. L. 100–342, §16(3), 102 Stat. 635.
21105(c)	45:63(b).	
21105(d)	45:63(c).	

In this section, the words ''dispatching service employee'' are substituted for ''operator, train dispatcher, or other employee who by the use of the telegraph, telephone, radio, or any other electrical or mechanical device dispatches, reports, transmits, receives, or delivers orders pertaining to or affecting train movements'' in 45:63(a), ''employee . . . on duty in a class of service . . . described in paragraph (1) or (2) of such subsection'' in 45:63(b), and ''employees named in such subsection'' in 45:63(c) because of the definition of ''dispatching service employee'' in section 21101 of the revised title.

In subsection (a), the words ''This section applies, rather than section 21103 or 21104 of this title'' are substituted for ''The provisions of this section shall not apply'' because of the restatement. The words ''train employee'' are substituted for ''employee'' in 45:62(d), and the words ''signal employee'' are substituted for ''individual'' in 45:63a(e), for consistency in this chapter and because of the definitions of ''signal employee'' and ''train employee'' in section 21101 of the revised title. The words ''during any period of time the employee is performing duties of a dispatching service employee'' are substituted for ''during such period of time as the provisions of section 63 of this title apply to his duty and off-duty periods'' in 45:62(d) and 63a(e) for clarity.

In subsection (b), before clause (1), the words ''a total of'' are substituted for ''whether consecutive or in the aggregate'' to eliminate unnecessary words.

In subsection (c), the words ''a tower, office, station, or other place'' are substituted for ''a place, described in paragraph (1) or (2) of such subsection'' for clarity.

In subsection (d), the words ''When an emergency exists'' are substituted for ''in case of emergency'' for consistency in this chapter.

§ 21106. Limitations on employee sleeping quarters

A railroad carrier and its officers and agents—

(1) may provide sleeping quarters (including crew quarters, camp or bunk cars, and trailers) for employees, and any individuals employed to maintain the right of way of a railroad carrier, only if the sleeping quarters are clean, safe, and sanitary and give those employees and individuals an opportunity for rest free from the interruptions caused by noise under the control of the carrier; and

(2) may not begin, after July 7, 1976, construction or reconstruction of sleeping quarters referred to in clause (1) of this section in an area or in the immediate vicinity of an area, as determined under regulations prescribed by the Secretary of Transportation, in which railroad switching or humping operations are performed.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 891.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21106	45:62(a)(3), (4).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §2(a)(3), (4); added July 8, 1976, Pub. L. 94–348, §4(a)(3), 90 Stat. 818; June 22, 1988, Pub. L. 100–342, §16(2), 102 Stat. 634.
	45:62(e).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §2(e); added June 22, 1988, Pub. L. 100–342, §19(b)(1), 102 Stat. 638.
	45:63a(d) (related to 45:62(a)(3)).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(d) (related to §2(a)(3)); added July 8, 1976, Pub. L. 94–348, §4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100–342, §16(4), 102 Stat. 635.

In this section, before clause (1), the words ''and any individuals employed to maintain the right of way of a railroad carrier'' are substituted for 45:62(e) because of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21303 of this title.

§ 21107. Maximum duty hours and subjects of collective bargaining

The number of hours established by this chapter that an employee may be required or allowed to be on duty is the maximum number of hours consistent with safety. Shorter hours of service and time on duty of an employee are proper subjects for collective bargaining between a railroad carrier and its employees.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 891.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21107	45:63a(d) (related to 45:64).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(d) (related to §4); added July 8, 1976, Pub. L. 94–348, §4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100–342, §16(4), 102 Stat. 635.
	45:64.	Mar. 4, 1907, ch. 2939, §4, 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 464; June 22, 1988, Pub. L. 100–342, §16(5), 102 Stat. 635.

§ 21108. Pilot projects

(a) WAIVER.—A railroad carrier or railroad carriers and all labor organizations representing any class or craft of directly affected covered service employees of the railroad carrier or railroad carriers, may jointly petition the Secretary of Transportation for approval of a waiver, in whole or in part, of compliance with this chapter, to enable the establishment of one or more pilot projects to demonstrate the possible benefits of implementing alternatives to the strict application of the requirements of this chapter to such class or craft of employees, including requirements concerning maximum on-duty and minimum off-duty periods. Based on such a joint petition, the Secretary may, after notice and opportunity for comment, waive in whole or in part compliance with this chapter for a period of no more than two years, if the Secretary determines that such waiver of compliance is in the public interest and is consistent with railroad safety. Any such waiver may, based on a new petition, be extended for additional periods of up to two years, after notice and opportunity for comment. An explanation of any waiver granted under this section shall be published in the Federal Register.

(b) REPORT.—The Secretary of Transportation shall submit to Congress, no later than January 1, 1997, a report that—

(1) explains and analyzes the effectiveness of all pilot projects established pursuant to a waiver granted under subsection (a);

(2) describes the status of all other waivers granted under subsection (a) and their related pilot projects, if any; and

(3) recommends appropriate legislative changes to this chapter.

(c) DEFINITION.—For purposes of this section, the term ''directly affected covered service employees'' means covered service employees to whose hours of service the terms of the waiver petitioned for specifically apply.

(Added Pub. L. 103–440, title II, §203(a), Nov. 2, 1994, 108 Stat. 4619.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21303 of this title.

CHAPTER 213—PENALTIES

SUBCHAPTER I—CIVIL PENALTIES

Sec.
21301. Chapter 201 general violations.
21302. Chapter 201 accident and incident violations and chapter 203–209 violations.
21303. Chapter 211 violations.
21304. Willfulness requirement for penalties against individuals.

SUBCHAPTER II—CRIMINAL PENALTIES

21311. Records and reports.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 103, 501, 20105 of this title.

SUBCHAPTER I—CIVIL PENALTIES

§ 21301. Chapter 201 general violations

(a) PENALTY.—(1) A person may not fail to comply with a regulation prescribed or order issued by the Secretary of Transportation under chapter 201 of this title. Subject to section 21304 of this title, a person violating a regulation prescribed or order issued by the Secretary under chapter 201 is liable to the United States Government for a civil penalty. The Secretary shall impose the penalty applicable under paragraph (2) of this subsection. A separate violation occurs for each day the violation continues.

(2) The Secretary shall include in, or make applicable to, each regulation prescribed and order issued under chapter 201 of this title a civil penalty for a violation. The amount of the penalty shall be at least $500 but not more than $10,000. However, when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than $20,000.

(3) The Secretary may compromise the amount of a civil penalty imposed under this subsection to not less than $500 before referring the matter to the Attorney General for collection. In determining the amount of a compromise, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, and any effect on the ability to continue to do business; and

(C) other matters that justice requires.

(b) SETOFF.—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(c) DEPOSIT IN TREASURY.—A civil penalty collected under this section or section 20113(b) of this title shall be deposited in the Treasury as miscellaneous receipts.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 891; Pub. L. 104–287, § 5(53), Oct. 11, 1996, 110 Stat. 3393.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21301(a)(1) ..	45:438(a).	Oct. 16, 1970, Pub. L. 91–458, § 209(a), 84 Stat. 975; restated Jan. 14, 1983, Pub. L. 97–468, § 706, 96 Stat. 2581; June 22, 1988, Pub. L. 100–342, § 3(a)(1), 102 Stat. 624; Sept. 3, 1992, Pub. L. 102–365, § 9(a)(1), 106 Stat. 977.
	45:438(c) (1st, 3d sentences).	Oct. 16, 1970, Pub. L. 91–458, § 209(c) (1st, 3d, 5th–8th sentences), 84 Stat. 975; June 22, 1988, Pub. L. 100–342, § 3(a)(3)(A), (C), 102 Stat. 624; Sept. 3, 1992, Pub. L. 102–365, § 4(c)(1), 106 Stat. 974.
21301(a)(2) ..	45:438(b) (related to rules, regulations, orders, or standards issued under this subchapter).	Oct. 16, 1970, Pub. L. 91–458, § 209(b) (related to rules, regulations, orders, or standards issued under this title), 84 Stat. 975; Jan. 3, 1975, Pub. L. 93–633, § 204(a), 88 Stat. 2165; June 22, 1988, Pub. L. 100–342, § 3(a)(2), 102 Stat. 624; Sept. 3, 1992, Pub. L. 102–365, § 4(a)(1), 106 Stat. 973.
21301(a)(3) ..	45:438(c) (5th, 6th sentences).	
21301(b)	45:438(c) (7th sentence).	
21301(c)	45:438(c) (8th sentence).	

In subsection (a), the words ''impose'' and ''imposed'' are substituted for ''assessed'', for consistency in the revised title.

In subsection (a)(1), the first 2 sentences are substituted for 45:438(a) and (c) (1st sentence) for consistency in the revised title and to eliminate unnecessary words. The words ''(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)'' are omitted as surplus because of the definition of ''person'' in 1:1 and because the provision being violated indicates to whom it applies. The word ''shall'' in 45:438(c) (1st sentence) is retained from the source provisions. For a discussion of whether the authority of the Secretary of Transportation to impose a penalty is mandatory or permissive, see *Railway Labor Executives' Ass'n* v. *Dole*, 760 F.2d 1021, 1024, 1025 (9th Cir. 1985); H.R. Conf. Rept. No. 100–637, 100th Cong., 2d Sess., p. 20; 134 Cong. Rec. H3470, May 23, 1988 (daily ed.); 134 Cong. Rec. S7510, June 9, 1988 (daily ed.). See also 134 Cong. Rec. E1946, June 10, 1988 (daily ed.). For an extended discussion of FRA's prosecutorial discretion, see *Nationwide Rail Safety: Hearing Before the Subcommittee on Transportation, Tourism, and Hazardous Materials of the House Energy and Commerce Committee*, 100th Cong., 1st Sess., pp. 54–65 (1987). See also section 6 of this bill that provides that this bill restates, without substantive change, the provisions of law replaced by this bill, and that this bill may not be construed as making a substantive change in the law restated. Therefore, the word ''shall'' in this subsection has the same meaning it has under existing law. The words ''A separate violation'' are substituted for ''a separate offense'' for consistency.

In subsection (a)(3), the words ''may compromise the amount . . . to not less than $500'' are substituted for ''may, however, be compromised . . . for any amount, but in no event for an amount less than the minimum provided in subsection (b) of this section'' for clarity and to eliminate unnecessary words. In clause (B), the words ''prior or subsequent'' are omitted as unnecessary.

In subsection (c), the words ''deposited in'' are substituted for ''covered into'' for consistency in the revised title and with other titles of the United States Code.

PUB. L. 104–287

This amends 49:21301(a)(1) to clarify the restatement of 45:438(a) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 891).

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–287, § 5(53)(B), substituted ''Secretary under chapter 201 is liable'' for ''Secretary of Transportation under chapter 201 of this title is liable''.

Pub. L. 104–287, § 5(53)(A), inserted ''A person may not fail to comply with a regulation prescribed or order issued by the Secretary of Transportation under chapter 201 of this title.'' before ''Subject to''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20112, 20138 of this title.

§ 21302. Chapter 201 accident and incident violations and chapter 203–209 violations

(a) PENALTY.—(1) Subject to section 21304 of this title, a person violating a regulation prescribed or order issued under chapter 201 of this title related to accident and incident reporting or investigation, or violating chapters 203–209 of this title or a regulation or requirement prescribed or order issued under chapters 203–209, is liable to the United States Government for a civil penalty. An act by an individual that causes a railroad carrier to be in violation is a violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation imposes a civil penalty under this subsection. The amount of the penalty shall be at least $500 but not more than $10,000. However, when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to

individuals, or has caused death or injury, the amount may be not more than $20,000.

(3) The Secretary may compromise the amount of the civil penalty under section 3711 of title 31. In determining the amount of a compromise, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, and any effect on the ability to continue to do business; and

(C) other matters that justice requires.

(4) If the Secretary does not compromise the amount of the civil penalty, the Secretary shall refer the matter to the Attorney General for collection.

(b) CIVIL ACTIONS TO COLLECT.—The Attorney General shall bring a civil action in a district court of the United States to collect a civil penalty that is referred to the Attorney General for collection under subsection (a) of this section. The action may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If the action is against an individual, the action also may be brought in the judicial district in which the individual resides.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 892.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21302	45:6 (1st sentence words before 23d comma and between 24th comma and proviso, 2d sentence words before 2d comma, last sentence).	Mar. 2, 1893, ch. 196, §6 (1st sentence words before 23d comma and between 24th comma and proviso, 2d sentence words before 2d comma, last sentence), 27 Stat. 532; restated Apr. 1, 1896, ch. 87, 29 Stat. 85; Aug. 14, 1957, Pub. L. 85–135, §1(1), 71 Stat. 352; July 8, 1976, Pub. L. 94–348, §3(a), 90 Stat. 818; Nov. 2, 1978, Pub. L. 95–574, §7(a), 92 Stat. 2461; Oct. 10, 1980, Pub. L. 96–423, §8(b), 94 Stat. 1814; June 22, 1988, Pub. L. 100–342, §13(1)(F), 102 Stat. 630; Sept. 3, 1992, Pub. L. 102–365, §§4(a)(1), (c)(3), 9(a)(3), 106 Stat. 973, 974, 977.
	45:8 (words before 16th comma).	Mar. 2, 1903, ch. 976, §1 (words before 23d comma), 32 Stat. 943; June 22, 1988, Pub. L. 100–342, §13(2)(A), 102 Stat. 631.
	45:9 (last sentence).	Mar. 2, 1903, ch. 976, 32 Stat. 943, §2 (last sentence); added Apr. 11, 1958, Pub. L. 85–375, §1(b)(3), 72 Stat. 86.
	45:10 (words after 19th comma).	Mar. 2, 1903, ch. 976, §3 (last sentence words after semicolon), 32 Stat. 944.
	45:12 (1st sentence words after semicolon).	Apr. 14, 1910, ch. 160, §3 (1st sentence words between semicolon and proviso), 36 Stat. 298.
	45:13 (1st sentence words before last comma, 2d sentence words before proviso, last sentence).	Apr. 14, 1910, ch. 160, §4 (1st sentence words before last comma, 2d sentence words before proviso, last sentence), 36 Stat. 299; Aug. 14, 1957, Pub. L. 85–135, §1(2), 71 Stat. 352; July 8, 1976, Pub. L. 94–348, §3(b), 90 Stat. 818; Nov. 2, 1978, Pub. L. 95–574, §7(b), 92 Stat. 2461; June 22, 1988, Pub. L. 100–342, §13(3)(C)(i)–(iv), 102 Stat. 632; Sept. 3, 1992, Pub. L. 102–365, §§4(a)(1), (c)(4), 9(a)(5), 106 Stat. 973, 974, 978.
	45:14 (words after semicolon).	Apr. 14, 1910, ch. 160, §5 (words after semicolon), 36 Stat. 299.
	45:30 (1st sentence related to 45:34).	Mar. 4, 1915, ch. 169, §2 (1st sentence related to §9 of Act of Feb. 17, 1911), 38 Stat. 1192; Apr. 22, 1940, ch. 124, §2, 54 Stat. 148; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320.
	45:34 (1st sentence words before last comma, 2d, last sentences).	Feb. 17, 1911, ch. 103, §9 (1st sentence words before last comma, 2d, last sentences), 36 Stat. 916; Apr. 22, 1940, ch. 124, §1 (related to §9 of Act of Feb. 17, 1911), 54 Stat. 148; Aug. 14, 1957, Pub. L. 85–135, §3, 71 Stat. 352; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320; July 8, 1976, Pub. L. 94–348, §3(c), 90 Stat. 818; Nov. 2, 1978, Pub. L. 95–574, §7(c), 92 Stat. 2461; Oct. 10, 1980, Pub. L. 96–423, §8(c), 94 Stat. 1814; June 22, 1988, Pub. L. 100–342, §14(7)(A), 102 Stat. 633; Sept. 3, 1992, Pub. L,. 102–365, §§4(a)(1), (c)(7), 9(a)(8), 106 Stat. 973, 975, 978.
	45:43 (1st sentence words before last comma, 2d sentence, 3d sentence words before 5th comma, last sentence).	May 6, 1910, ch. 208, §7 (1st sentence words before last comma, 2d sentence, 3d sentence words before 5th comma, last sentence), 36 Stat. 351; Sept. 13, 1960, Pub. L. 86–762, §3, 74 Stat. 904; restated June 22, 1988, Pub. L. 100–342, §15(4), 102 Stat. 634; Sept. 3, 1992, Pub. L. 102–365, §§4(a)(1), (c)(5), 9(a)(6), 106 Stat. 973, 974, 978.
	45:438(b) (related to 45:39).	Oct. 16, 1970, Pub. L. 91–458, §209(b) (related to §2 of Act of May 6, 1910), 84 Stat. 975; Jan. 3, 1975, Pub. L. 93–633, §204(a), 88 Stat. 2165; June 22, 1988, Pub. L. 100–342, §3(a)(2), 102 Stat. 624; Sept. 3, 1992, Pub. L. 102–365, §4(a)(1), 106 Stat. 973.
	49 App.:26(h) (1st sentence words before last comma, 2d, 3d sentences, 4th sentence words before last comma, last sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(h) (1st sentence words before last comma, 2d, 3d sentences, 4th sentence words before last comma, last sentence); added Feb. 28, 1920, ch. 91, §441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 837; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919; July 8, 1976, Pub. L. 94–348, §3(d), 90 Stat 818; Nov. 2, 1978, Pub. L. 95–574, §7(d), 92 Stat. 2461; Oct. 10, 1980, Pub. L. 96–423, §8(d), 94 Stat. 1814; June 22, 1988, Pub. L. 100–342, §17(7), (8), 102 Stat. 636; Sept. 3, 1992, Pub. L. 102–365, §§4(a)(1), (c)(6), 9(a)(7), 106 Stat. 973, 974, 978.
	49 App.:1655(e)(1)(A), (C), (E)–(G), (K), (6)(A).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(A), (C), (E)–(G), (K), (6)(A), 80 Stat. 939.

In subsection (a)(1), the words ''(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)'' are omitted as surplus because of the definition of ''person'' in 1:1 and because the provision being violated indicates to whom it applies. The words ''violating a regulation prescribed or order issued under chapter 201 of this title related to accident and incident reporting or investigation'' are substituted for ''violat-

ing . . . any rule, regulation, order, or standard issued under . . . the Federal Railroad Safety Act of 1970 [45 U.S.C. 431 et seq.] pertaining to accident reporting or investigations'' in 45:43, and the words ''violating chapters 203–209 of this title or a regulation or requirement prescribed or order issued under chapters 203–209'' are substituted for various language in the source provisions, for clarity, for consistency in this section, and to eliminate unnecessary words. The words ''liable to the United States Government for a civil penalty'' are substituted for ''liable to a penalty'' for clarity. The text of 45:438(b) (related to 45:39) is omitted as covered by 45:43.

In subsection (a)(2), the words ''The Secretary of Transportation imposes a civil penalty under this subsection'' are substituted for ''to be assessed by the Secretary of Transportation'' in 45:6, ''Such penalty shall be assessed by the Secretary of Transportation'' in 45:13, the text of 45:10 (words after 7th comma) and 14 (words after semicolon), and ''in such amount . . . as the Secretary of Transportation deems reasonable'' in 45:34 and 43 and 49 App.:26(h) for clarity and to eliminate unnecessary words. The words ''per violation'' are omitted as surplus.

In subsections (a)(3) and (b), the words ''Attorney General'' are substituted for ''United States attorney'', ''such attorneys, subject to the direction of the Attorney General'', ''proper United States attorney'' and ''proper United States attorneys'' because of 28:509.

In subsection (a)(3), the words ''section 3711 of title 31'' are substituted for ''the Federal Claims Collection Act of 1966'' and ''sections 3711 and 3716 to 3718 of title 31'' because the Federal Claims Collection Act of 1966 has been repealed and reenacted as part of title 31 and penalties are compromised under 31:3711. In clause (B), the words ''prior or subsequent'' are omitted as unnecessary.

In subsection (a)(4), the words ''the Secretary shall refer the matter to the Attorney General for collection'' are substituted for ''recovered in a suit or suits to be brought by'' for clarity. The words ''and it shall also be the duty of the Secretary of Transportation to lodge with . . . information of any such violations as may come to his knowledge'' and ''and it shall be the duty of the director of locomotive inspection to give information . . . of all violations coming to his knowledge'' are omitted as obsolete.

In subsection (b), the words ''The Attorney General shall bring a civil action in a district court of the United States to collect a civil penalty that is referred to the Attorney General for collection under subsection (a) of this section'' are substituted for ''and it shall be the duty of such United States attorney to bring such suits upon duly verified information being lodged with him of such violation having occurred'' in 45:6, and for ''It shall be the duty of such attorneys to bring such suits upon duly verified information being lodged with them showing such violations having occurred'' in 49 App.:26, for clarity and consistency in this section and with other provisions of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20303 of this title; title 31 section 3711.

§ 21303. Chapter 211 violations

(a) PENALTY.—(1) Subject to section 21304 of this title, a person violating chapter 211 of this title, or violating any provision of a waiver applicable to that person that has been granted under section 21108 of this title, is liable to the United States Government for a civil penalty. An act by an individual that causes a railroad carrier to be in violation is a violation. For a violation of section 21106 of this title, a separate violation occurs for each day a facility is not in compliance.

(2) The Secretary of Transportation imposes a civil penalty under this subsection. The amount of the penalty shall be at least $500 but not more than $10,000. However, when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than $20,000.

(3) The Secretary may compromise the amount of the civil penalty under section 3711 of title 31. In determining the amount of a compromise, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, and any effect on the ability to continue to do business; and

(C) other matters that justice requires.

(4) If the Secretary does not compromise the amount of the civil penalty, the Secretary shall refer the matter to the Attorney General for collection.

(b) CIVIL ACTIONS TO COLLECT.—(1) The Attorney General shall bring a civil action in a district court of the United States to collect a civil penalty that is referred to the Attorney General for collection under subsection (a) of this section after satisfactory information is presented to the Attorney General. The action may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If the action is against an individual, the action also may be brought in the judicial district in which the individual resides.

(2) A civil action under this subsection must be brought not later than 2 years after the date of the violation unless administrative notification under section 3711 of title 31 is given within that 2-year period to the person committing the violation. However, even if notification is given, the action must be brought within the period specified in section 2462 of title 28.

(c) IMPUTATION OF KNOWLEDGE.—In any proceeding under this section, a railroad carrier is deemed to know the acts of its officers and agents.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 892; Pub. L. 103–440, title II, § 204, Nov. 2, 1994, 108 Stat. 4620; Pub. L. 104–287, § 5(54), Oct. 11, 1996, 110 Stat. 3393.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21303	45:63a(d) (related to 45:64a).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, § 3A(d) (related to § 5); added July 8, 1976, Pub. L. 94–348, § 4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100–342, § 16(4), 102 Stat. 635.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	45:64a(a)(1) (1st sentence words before last comma, 2d–4th sentences, 5th sentence words before last comma, last sentence).	Mar. 4, 1907, ch. 2939, §5(a)(1) (1st sentence words before last comma, 2d–4th sentences, 5th sentence words before last comma, last sentence), 34 Stat. 1417; Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 464; July 8, 1976, Pub. L. 94–348, §4(e), 90 Stat. 819; Oct. 10, 1980, Pub. L. 96–423, §12, 94 Stat. 1816; restated June 22, 1988, Pub. L. 100–342, §16(6)(A), 102 Stat. 635; Sept. 3, 1992, Pub. L,. 102–365, §§4(a)(2), (c)(2), 9(a)(2), 106 Stat. 973, 974, 977.
	45:64a(a)(2).	Mar. 4, 1907, ch. 2939, §5(a)(2), 34 Stat. 1417; Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 464; July 8, 1976, Pub. L. 94–348, §4(e), 90 Stat. 819; restated Oct. 10, 1980, Pub. L. 96–423, §12, 94 Stat. 1816; June 22, 1988, Pub. L. 100–342, §16(6)(B), 102 Stat. 635.
	45:64a(b).	Mar. 4, 1907, ch. 2939, §5(b), 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 464.
	45:64a(c).	Mar. 4, 1907, ch. 2939, §5(c), 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 464; June 22, 1988, Pub. L. 100–342, §16(6)(C), 102 Stat. 635.

In this section, the words ''Attorney General'' are substituted for ''United States attorney'' because of 28:509. The words ''civil action'' are substituted for ''suit or suits'', ''action'', and ''prosecutions'' for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (a)(1), the words ''(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)'' are omitted as surplus because of the definition of ''person'' in 1:1 and because the provision being violated indicates to whom it applies. The words ''violating chapter 211 of this title'' are substituted for ''that requires or permits any employee to go, be, or remain on duty in violation of section 62, section 63, or section 63a of this title, or that violates any other provision of this chapter'' to eliminate unnecessary words. The words ''to the United States Government for a civil penalty'' are substituted for ''for a penalty'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2), the words ''The Secretary of Transportation imposes a civil penalty under this subsection'' are substituted for ''as the Secretary of Transportation deems reasonable'' for clarity and consistency.

In subsection (a)(3), the words ''section 3711 of title 31'' are substituted for ''sections 3711 and 3716 to 3718 of title 31'' because penalties are compromised under 31:3711. In clause (B), the words ''prior or subsequent'' are omitted as unnecessary.

In subsection (a)(4), the words ''the Secretary shall refer the matter to the Attorney General for collection'' are substituted for ''recovered in a suit or suits to be brought by'' for clarity. The text of 45:64a(b) is omitted as obsolete.

In subsection (b)(1), the words ''The Attorney General shall bring a civil action in a district court of the United States to collect a civil penalty that is referred to the Attorney General for collection under subsection (a) of this section after satisfactory information is presented to the Attorney General'' are substituted for ''It shall be the duty of the United States attorney to bring such an action upon satisfactory information being lodged with him'' for clarity and consistency in this section and with other provisions of the revised title.

In subsection (c), the words ''any proceeding'' are substituted for ''all prosecutions'' for consistency in the revised title.

PUB. L. 104–287

This amends 49:21303(a)(1) to correct a grammatical error.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–287 inserted a comma after ''chapter 211 of this title''.

1994—Subsec. (a)(1). Pub. L. 103–440 inserted ''or violating any provision of a waiver applicable to that person that has been granted under section 21108 of this title,'' after ''chapter 211 of this title''.

§ 21304. Willfulness requirement for penalties against individuals

A civil penalty under this subchapter may be imposed against an individual only for a willful violation. An individual is deemed not to have committed a willful violation if the individual was following the direct order of a railroad carrier official or supervisor under protest communicated to the official or supervisor. The individual is entitled to document the protest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 893.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21304	45:6 (1st sentence words between 23d and 24th commas, 2d sentence words after 2d comma, 3d sentence).	Mar. 2, 1893, ch. 196, §6 (1st sentence words between 23d and 24th commas, 2d sentence words after 2d comma, 3d sentence), 27 Stat. 532; restated June 22, 1988, Pub. L. 100–342, §13(1)(F), 102 Stat. 630; Sept. 3, 1992, Pub. L. 102–365, §9(a)(3), 106 Stat. 977.
	45:13 (1st sentence words after last comma, 3d, 4th sentences).	Apr. 14, 1910, ch. 160, §4 (1st sentence words after last comma, 3d, 4th sentences), 36 Stat. 299; June 22, 1988, Pub. L. 100–342, §13(3)(C)(iii), (v), 102 Stat. 632.
	45:34 (1st sentence words after last comma, 3d, 4th sentences).	Feb. 17, 1911, ch. 103, §9 (1st sentence words after last comma, 3d, 4th sentences), 36 Stat. 916; June 22, 1988, Pub. L. 100–342, §14(7), 102 Stat. 633.
	45:43 (1st sentence words after last comma, 3d sentence words after 5th comma, 4th sentence).	May 6, 1910, ch. 208, §7 (1st sentence words after last comma, 3d sentence words after 5th comma, 4th sentence), 36 Stat. 351; Sept. 13, 1960, Pub. L. 86–762, §3, 74 Stat. 904; restated June 22, 1988, Pub. L. 100–342, §15(4), 102 Stat. 634.
	45:64a(a)(1) (1st sentence words after last comma, 5th sentence words after last comma, 6th sentence).	Mar. 4, 1907, ch. 2939, §5(a)(1) (1st sentence words after last comma, 5th sentence words after last comma, 6th sentence), 34 Stat. 1417; restated June 22, 1988, Pub. L. 100–342, §16(6)(A), 102 Stat. 635.
	45:438(c) (2d, 9th, last sentences).	Oct. 16, 1970, Pub. L. 91–458, §209(c) (2d, 8th, last sentences), 84 Stat. 975; June 22, 1988, Pub. L. 100–342, §3(a)(3)(A), (C), 102 Stat. 624; Sept. 3, 1992, Pub. L. 102–365, §4(c)(1), 106 Stat. 974.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:26(h) (1st sentence words after last comma, 4th sentence words after last comma, 5th sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(h) (1st sentence words after last comma, 4th sentence words after last comma, 5th sentence); added Feb. 28, 1920, ch. 91, §441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 837; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919; June 22, 1988, Pub. L. 100–342, §17(7), 102 Stat. 636.

The word ''official'' is added the 2d time it appears for consistency in this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 21301, 21302, 21303 of this title.

SUBCHAPTER II—CRIMINAL PENALTIES

§ 21311. Records and reports

(a) RECORDS AND REPORTS UNDER CHAPTER 201.—A person shall be fined under title 18, imprisoned for not more than 2 years, or both, if the person knowingly and willfully—

(1) makes a false entry in a record or report required to be made or preserved under chapter 201 of this title;

(2) destroys, mutilates, changes, or by another means falsifies such a record or report;

(3) does not enter required specified facts and transactions in such a record or report;

(4) makes or preserves such a record or report in violation of a regulation prescribed or order issued under chapter 201 of this title; or

(5) files a false record or report with the Secretary of Transportation.

(b) ACCIDENT AND INCIDENT REPORTS.—A railroad carrier not filing the report required by section 20901 of this title shall be fined not more than $500 for each violation and not more than $500 for each day during which the report is overdue.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 893.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
21311(a)	45:438(e).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §209(e); added Oct. 10, 1980, Pub. L. 96–423, §7, 94 Stat. 1814.
21311(b)	45:39 (related to fine).	May 6, 1910, ch. 208, §2 (related to fine), 36 Stat. 351; Jan. 3, 1975, Pub. L. 93–633, §204(b), 88 Stat. 2166; June 22, 1988, Pub. L. 100–342, §15(2), 102 Stat. 634; Sept. 3, 1992, Pub. L. 102–365, §4(a)(3), 106 Stat. 973.

In subsection (a), before clause (1), the words ''fined under title 18'' are substituted for ''fined not more than $5,000'' for consistency with title 18. In clause (1), the word ''prepared'' is omitted as surplus. In clause (4), the word ''prepares'' is omitted as surplus.

In subsection (b), the words ''shall be deemed guilty of a misdemeanor'' are omitted for consistency with title 18. The words ''upon conviction thereof by a court of competent jurisdiction'' and ''punished by a'' are omitted as surplus.

PART B—ASSISTANCE

CHAPTER 221—LOCAL RAIL FREIGHT ASSISTANCE

Sec.
22101. Financial assistance for State projects.
22102. Eligibility.
22103. Applications.
22104. State rail plan financing.
22105. Sharing project costs.
22106. Limitations on financial assistance.
22107. Records, audits, and information.
22108. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 302, 306 of this title.

§ 22101. Financial assistance for State projects

(a) GENERAL.—The Secretary of Transportation shall provide financial assistance to a State, as provided under this chapter, for a rail freight assistance project of the State when a rail carrier subject to part A of subtitle IV of this title maintains a rail line in the State. The assistance is for the cost of—

(1) acquiring, in any way the State considers appropriate, an interest in a rail line or rail property to maintain existing, or to provide future, rail freight transportation, but only if the Surface Transportation Board has authorized, or exempted from the requirements of that authorization, the abandonment of, or the discontinuance of rail transportation on, the rail line related to the project;

(2) improving and rehabilitating rail property on a rail line to the extent necessary to allow adequate and efficient rail freight transportation on the line, but only if the rail carrier certifies that the rail line related to the project carried not more than 5,000,000 gross ton-miles of freight a mile in the prior year; and

(3) building rail or rail-related facilities (including new connections between at least 2 existing rail lines, intermodal freight terminals, sidings, bridges, and relocation of existing lines) to improve the quality and efficiency of the rail freight transportation, but only if the rail carrier certifies that the rail line related to the project carried not more than 5,000,000 gross ton-miles of freight a mile in the prior year.

(b) CALCULATING COST-BENEFIT RATIO.—The Secretary shall establish a methodology for calculating the ratio of benefits to costs of projects proposed under this chapter. In establishing the methodology, the Secretary shall consider the need for equitable treatment of different regions of the United States and different commodities transported by rail. The establishment of the methodology is committed to the discretion of the Secretary.

(c) CONDITIONS.—(1) Assistance for a project shall be provided under this chapter only if—

(A) a rail carrier certifies that the rail line related to the project carried more than 20 carloads a mile during the most recent year during which transportation was provided by the carrier on the line; and

(B) the ratio of benefits to costs for the project, as calculated using the methodology

established under subsection (b) of this section, is more than 1.0.

(2) If the rail carrier that provided the transportation on the rail line is no longer in existence, the applicant for the project shall provide the information required by the certification under paragraph (1)(A) of this subsection in the way the Secretary prescribes.

(3) The Secretary may waive the requirement of paragraph (1)(A) or (2) of this subsection if the Secretary—

(A) decides that the rail line has contractual guarantees of at least 40 carloads a mile for each of the first 2 years of operation of the proposed project; and

(B) finds that there is a reasonable expectation that the contractual guarantees will be fulfilled.

(d) LIMITATIONS ON AMOUNTS.—A State may not receive more than 15 percent of the amounts provided in a fiscal year under this chapter. Not more than 20 percent of the amounts available under this chapter may be provided in a fiscal year for any one project.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 894; Pub. L. 104–88, title III, §308(f)(1), (2), Dec. 29, 1995, 109 Stat. 947.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
22101(a)	49 App.:1654(b).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §5(b), (c), (n)–(p); added Feb. 5, 1976, Pub. L. 94–210, §803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§102–106(a), 107–109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, §115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, §501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, §4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, §2(a), (c), 103 Stat. 1843, 1844, 1848.
	49 App.:1654(p).	
22101(b)	49 App.:1654(n).	
22101(c)	49 App.:1654(c).	
22101(d)	49 App.:1654(o).	

In this chapter, the word ''transportation'' is substituted for ''service'' for consistency in the revised title.

In subsection (a), before clause (1), the words ''when a rail carrier . . . maintains a rail line in the State'' are substituted for ''As used in this section, the term 'State' means any State in which a rail carrier providing transportation . . . maintains any line of railroad'' because of the restatement. The words ''the jurisdiction of the Interstate Commerce Commission'' are omitted as unnecessary because of 49:ch. 105. In clause (1), the words ''by purchase, lease'' are omitted as being included in ''in any way the State considers appropriate'' to eliminate unnecessary words.

In subsection (b), the words ''no later than July 1, 1990'' are omitted as executed.

In subsection (c)(1), before clause (A), the words ''Assistance for a project shall be provided under this chapter only if'' are substituted for ''No project shall be provided rail freight assistance under this section unless'' because of the restatement.

In subsection (c)(2), the words ''If the rail carrier that provided the transportation on the rail line'' are substituted for ''In a case where the railroad'', and the words ''information required by the certification under paragraph (1)(A) of this subsection'' are substituted for ''such information'', for clarity.

AMENDMENTS

1995—Subsec. (a). Pub. L. 104–88 substituted ''part A of subtitle IV'' for ''subchapter I of chapter 105'' in introductory provisions and ''Surface Transportation Board'' for ''Interstate Commerce Commission'' in par. (1).

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22103, 22104, 22105 of this title.

§ 22102. Eligibility

A State is eligible to receive financial assistance under this chapter only when the State complies with regulations the Secretary of Transportation prescribes under this chapter and the Secretary decides that—

(1) the State has an adequate plan for rail transportation in the State and a suitable process for updating, revising, and modifying the plan;

(2) the State plan is administered or coordinated by a designated State authority and provides for a fair distribution of resources;

(3) the State authority—

(A) is authorized to develop, promote, supervise, and support safe, adequate, and efficient rail transportation;

(B) employs or will employ sufficient qualified and trained personnel;

(C) maintains or will maintain adequate programs of investigation, research, promotion, and development with opportunity for public participation; and

(D) is designated and directed to take all practicable steps (by itself or with other State authorities) to improve rail transportation safety and reduce energy use and pollution related to transportation; and

(4) the State has ensured that it maintains or will maintain adequate procedures for financial control, accounting, and performance evaluation for the proper use of assistance provided by the United States Government.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 895.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
22102	49 App.:1654(a).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §5(a); added Feb. 5, 1976, Pub. L. 94–210, §803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§102–106(a), 107–109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, §115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, §501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, §4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, §2(a), (c), 103 Stat. 1843, 1844.

In this section, before clause (1), the words ''and the Secretary decides that'' are substituted for ''and the

Secretary determines that such State meets or exceeds the requirements of paragraphs (1) through (4) of this subsection'' to eliminate unnecessary words. In clauses (2) and (3), the word ''authority'' is substituted for ''agency'' for consistency in the revised title. In clause (2), the word ''fair'' is substituted for ''equitable'' for consistency in the revised title. In clause (3)(A), the words ''is authorized'' are substituted for ''has authority and administrative jurisdiction'' to eliminate unnecessary words. In clause (3)(B), the words ''directly or indirectly'' are omitted as surplus. In clause (4), the word ''adopt'' is omitted as being included in ''maintain''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22104 of this title; title 7 section 3703.

§ 22103. Applications

(a) FILING.—A State must file an application with the Secretary of Transportation for financial assistance for a project described under section 22101(a) of this title not later than January 1 of the fiscal year for which amounts have been appropriated. However, for a fiscal year for which the authorization of appropriations for assistance under this chapter has not been enacted by the first day of the fiscal year, the State must file the application not later than 90 days after the date of enactment of a law authorizing the appropriations for that fiscal year. The Secretary shall prescribe the form of the application.

(b) CONSIDERATIONS.—In considering an application under this subsection, the Secretary shall consider the following:

(1) the percentage of rail lines that rail carriers have identified to the Surface Transportation Board for abandonment or potential abandonment in the State.

(2) the likelihood of future abandonments in the State.

(3) the ratio of benefits to costs for a proposed project calculated using the methodology established under section 22101(b) of this title.

(4) the likelihood that the rail line will continue operating with assistance.

(5) the impact of rail bankruptcies, rail restructuring, and rail mergers on the State.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 896; Pub. L. 104–88, title III, § 308(f)(3), Dec. 29, 1995, 109 Stat. 947.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
22103(a)	49 App.:1654(f) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 5(f); added Feb. 5, 1976, Pub. L. 94–210, § 803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§ 102–106(a), 107–109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, § 115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§ 1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, § 501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, § 4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, § 2(a), (c), 103 Stat. 1843, 1846.
22103(b)	49 App.:1654(f) (last sentence).	

In subsection (a), the words ''under this chapter'' are added for clarity. The words ''a law'' are substituted for ''legislation'' for consistency in the revised title.

In subsection (b)(3), the words ''established by the Secretary'' are omitted as surplus.

In subsection (b)(5), the words ''applying for assistance'' are omitted as unnecessary because of the restatement.

AMENDMENTS

1995—Subsec. (b)(1). Pub. L. 104–88 substituted ''Surface Transportation Board'' for ''Interstate Commerce Commission''.

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.

§ 22104. State rail plan financing

(a) ENTITLEMENT AND USES.—On the first day of each fiscal year, each State is entitled to $36,000 of the amounts made available under section 22108 of this title during that fiscal year to be used—

(1) to establish, update, revise, and modify the State plan required by section 22102 of this title; or

(2) to carry out projects described in section 22101(a)(1), (2), or (3) of this title, as designated by the State, if those projects meet the requirements of section 22101(c)(1)(B) of this title.

(b) APPLICATIONS.—Each State must apply for amounts under this section not later than the first day of the fiscal year for which the amounts are available. However, for any fiscal year for which the authorization of appropriations for financial assistance under this chapter has not been enacted by the first day of the fiscal year, the State must apply for amounts under this section not later than 60 days after the date of enactment of a law authorizing the appropriations for that fiscal year. Not later than 60 days after receiving an application, the Secretary of Transportation shall consider the application and notify the State of the approval or disapproval of the application.

(c) AVAILABILITY OF AMOUNTS.—Amounts provided under this section remain available to a State for obligation for the first 3 months after the end of the fiscal year for which the amounts were made available. Amounts not applied for under this section or that remain unobligated after the first 3 months after the end of the fiscal year for which the amounts were made available are available to the Secretary for projects meeting the requirements of this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 896.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
22104(a)	49 App.:1654(g) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §5(g); added Feb. 5, 1976, Pub. L. 94–210, §803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§102–106(a), 107–109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, §115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, §501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, §4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, §2(a), (c), 103 Stat. 1843, 1846.
22104(b)	49 App.:1654(g) (2d, 3d sentences).	
22104(c)	49 App.:1654(g) (4th, last sentences).	

In subsection (a)(1), the word ''modify'' is added for consistency with 49 App.:1654(a), restated in section 22102 of the revised title.

In subsection (b), the words ''not later than the first day of the fiscal year for which the amounts are available'' are substituted for ''on or before the first day of the fiscal year'' for clarity.

In subsection (c), the word ''timely'' is omitted as unnecessary. The words ''the first 3 months after the end of the fiscal year for which the amounts were made available'' are substituted for ''the expiration of the period described in the previous sentence'' for clarity.

§ 22105. Sharing project costs

(a) GENERAL.—(1) The United States Government's share of the costs of financial assistance for a project under this chapter is 50 percent, except that for assistance provided under section 22101(a)(2) of this title, the Government's share is 70 percent. The State may pay its share of the costs in cash or through the following benefits, to the extent that the benefits otherwise would not be provided:

(A) forgiveness of taxes imposed on a rail carrier or its property.

(B) real and tangible personal property (provided by the State or a person for the State) necessary for the safe and efficient operation of rail freight transportation.

(C) track rights secured by the State for a rail carrier.

(D) the cash equivalent of State salaries for State employees working on the State project, except overhead and general administrative costs.

(2) A State may pay more than its required percentage share of the costs of a project under this chapter. When a State, or a person acting for a State, pays more than the State share of the costs of its projects during a fiscal year, the excess amount shall be applied to the State share for the costs of the State projects for later fiscal years.

(b) AGREEMENTS TO COMBINE AMOUNTS.—States may agree to combine any part of the amounts made available under this chapter to carry out a project that is eligible for assistance under this chapter when—

(1) the project will benefit each State making the agreement; and

(2) the agreement is not a violation of State law.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 897.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
22105(a)	49 App.:1654(e).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §5(e), (j); added Feb. 5, 1976, Pub. L. 94–210, §803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§102–106(a), 107– 109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, §115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, §501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, §4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, §2(a), (c), 103 Stat. 1843, 1845, 1847.
22105(b)	49 App.:1654(j).	

In this section, the words ''project'' and ''projects'' are substituted for ''program'' for clarity and consistency in this section.

In subsection (a)(1), before clause (A), the words ''financial assistance for a project under this chapter'' are substituted for ''rail freight assistance project'' for clarity and consistency in this chapter. In clause (B), the words ''for use in its rail freight assistance program'' are omitted as unnecessary because of the restatement. In clause (D), the words ''State employees'' are substituted for ''State public employees'' to eliminate an unnecessary word.

In subsection (b), before clause (1), the words ''States may agree'' are substituted for ''Two or more States . . . enter into an agreement'' to eliminate unnecessary words.

§ 22106. Limitations on financial assistance

(a) GRANTS AND LOANS.—A State shall use financial assistance for projects under this chapter to make a grant or lend money to the owner of rail property, or a rail carrier providing rail transportation, related to a project being assisted. The State shall decide on the financial terms of the grant or loan, except that the time for making grant advances shall comply with regulations of the Secretary of the Treasury.

(b) HOLDING AND USE OF GOVERNMENT'S SHARE.—The State shall place the United States Government's share of money that is repaid in an interest-bearing account. However, the Secretary of Transportation may allow a borrower to place that money, for the benefit of the State, in a bank designated by the Secretary of the Treasury under section 10 of the Act of June 11, 1942 (12 U.S.C. 265). The State shall use the money and accumulated interest to make other grants and loans under this chapter in the same manner and under the same conditions as if they were originally granted to the State by the Secretary of Transportation.

(c) PAYMENT OF UNUSED MONEY AND ACCUMULATED INTEREST.—The State may pay the Secretary of Transportation the Government's share of unused money and accumulated interest at any time. However, the State must pay the unused money and accumulated interest to the Secretary when the State ends its participation under this chapter.

(d) ENCOURAGING PARTICIPATION.—To the maximum extent possible, the State shall encourage the participation of shippers, rail carriers, and local communities in paying the State share of assistance costs.

(e) RETENTION OF CONTINGENT INTEREST.—Each State shall retain a contingent interest (redeem-

able preference shares) for the Government's share of amounts in a rail line receiving assistance under this chapter. The State may collect its share of the amounts used for the rail line if—

(1) an application for abandonment of the rail line is filed under chapter 109 of this title; or

(2) the rail line is sold or disposed of after it has received assistance under this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 897; Pub. L. 104–287, § 5(55), Oct. 11, 1996, 110 Stat. 3393.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
22106(a)	49 App.:1654(d)(1), (2).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 5(d), (i); added Feb. 5, 1976, Pub. L. 94–210, § 803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§ 102–106(a), 107– 109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, § 115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§ 1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, § 501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, § 4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, § 2(a), (c), 103 Stat. 1843, 1845, 1847.
22106(b)	49 App.:1654(d)(3) (1st, 2d sentences).	
22106(c)	49 App.:1654(d)(3) (3d, last sentences).	
22106(d)	49 App.:1654(d)(4).	
22106(e)	49 App.:1654(i).	

In subsection (a), the words ''financial assistance for projects under this chapter'' are substituted for ''assistance provided under subsection (b) of this section'' for clarity. The words ''rail carrier providing rail transportation'' are substituted for ''operator of rail service'' for consistency in the revised title. The word ''conditions'' is omitted as being included in ''terms''. The words ''Secretary of the Treasury'' are substituted for ''Department of the Treasury'' because of 31:301(b).

In subsection (b), the words ''in the same manner and under the same conditions as if they were originally granted to the State by the Secretary'' are omitted as unnecessary.

In subsection (e)(2), the words ''assistance under this chapter'' are substituted for ''Federal assistance'' for clarity and consistency in this chapter.

PUB. L. 104–287

This amends 49:22106(b) to clarify the restatement of 49 App.:1654(d)(3) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 897).

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–287 inserted ''in the same manner and under the same conditions as if they were originally granted to the State by the Secretary of Transportation'' after ''under this chapter''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

§ 22107. Records, audits, and information

(a) RECORDS.—Each recipient of financial assistance through an arrangement under this chapter shall keep records required by the Secretary of Transportation. The records shall be kept for 3 years after a project is completed and shall disclose—

(1) the amount of, and disposition by the recipient, of the assistance;

(2) the total costs of the project for which the assistance was given or used;

(3) the amount of that part of the costs of the project paid by other sources; and

(4) any other records that will make an effective audit easier.

(b) AUDITS.—The Secretary shall make regular financial and performance audits, as provided under chapter 75 of title 31, of activities and transactions assisted under this chapter.

(c) INFORMATION.—The Surface Transportation Board shall provide the Secretary with information the Secretary requests to assist in carrying out this chapter. The Board shall provide the information not later than 30 days after receiving a request from the Secretary.

(d) LIST OF RAIL LINES.—Not later than August 1 of each year, each rail carrier subject to part A of subtitle IV of this title shall submit to the Secretary a list of the rail lines of the carrier that carried not more than 5,000,000 gross ton-miles of freight a mile in the prior year.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 898; Pub. L. 104–88, title III, § 308(f)(4), (5), Dec. 29, 1995, 109 Stat. 947; Pub. L. 104–316, title I, § 127(c), Oct. 19, 1996, 110 Stat. 3840.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
22107(a)	49 App.:1654(k)(1).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 5(k)–(m); added Feb. 5, 1976, Pub. L. 94–210, § 803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§ 102–106(a), 107– 109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, § 115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§ 1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, § 501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, § 4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, § 2(a), (c), 103 Stat. 1843, 1847.
22107(b)	49 App.:1654(k)(2), (3).	
22107(c)	49 App.:1654(*l*).	
22107(d)	49 App.:1654(m).	

In subsection (a), before clause (1), the words ''an arrangement'' are substituted for ''whether in the form of grants, subgrants, contracts, subcontracts, or other arrangements'', and the word ''project'' is substituted for ''project or undertaking'', to eliminate unnecessary words and for consistency in this chapter.

Subsection (b) is substituted for 49 App.:1654(k)(2) and (3) because of 31:ch. 75.

In subsection (d), the words ''Not later than'' are substituted for ''On or before'' for clarity. The word ''submit'' is substituted for ''prepare, update, and submit'' to eliminate unnecessary words. The words ''based on level of usage'' are omitted as surplus.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–316 struck out ''and the Comptroller General'' after ''Secretary''.

1995—Subsec. (c). Pub. L. 104–88, § 308(f)(4), substituted ''Surface Transportation Board'' for ''Interstate Commerce Commission'' and ''The Board'' for ''The Commission''.

Subsec. (d). Pub. L. 104–88, §308(f)(5), substituted ''part A of subtitle IV'' for ''subchapter I of chapter 105''.

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.

§ 22108. Authorization of appropriations

(a) GENERAL.—(1) Not more than the following amounts may be appropriated to the Secretary of Transportation to carry out this chapter:

(A) $25,000,000 for the fiscal year ending September 30, 1993.

(B) $30,000,000 for the fiscal year ending September 30, 1994.

(2) Amounts appropriated under paragraph (1) of this subsection remain available until expended.

(3) No amount may be appropriated under this subsection to the Secretary for any period after September 30, 1994, to carry out this chapter.

(b) DISTRIBUTION OF AMOUNTS.—The Secretary shall establish procedures necessary to ensure that amounts available to the Secretary for projects under this chapter are distributed not later than April 1 of the fiscal year for which the amounts are appropriated. If any amounts are not distributed by April 1, the Secretary shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the status of those amounts and the reasons for the delay in distribution.

(c) AVAILABILITY OF OTHER AMOUNTS.—Amounts appropriated to carry out section 5(i) of the Department of Transportation Act for fiscal year 1990 that are not applied for or that remain unobligated on January 1, 1991, are available to the Secretary for projects under this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 898; Pub. L. 103–429, §6(20), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 104–287, §5(48), Oct. 11, 1996, 110 Stat. 3393.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
22108(a)	49 App.:1654(q).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §5(h), (q); added Feb. 5, 1976, Pub. L. 94–210, §803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§102–106(a), 107– 109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, §115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, §501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, §4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, §2(a), (c), 103 Stat. 1843, 1847, 1848; Sept. 3, 1992, Pub. L. 102–365, §14, 106 Stat. 980.
22108(b)	49 App.:1654(h).	
22108(c)	(no source).	

In subsection (a), the words ''to carry out this chapter'' are substituted for ''for the purposes of this section'' and ''under this section'' for clarity. The reference to fiscal years 1991 and 1992 is omitted as obsolete.

Subsection (c) is added because section 2(b)(1) of the Local Rail Service Reauthorizing Act (Public Law 101–213, 103 Stat. 1843) provided that amounts available for fiscal year 1990 to carry out section 5(i) of the Department of Transportation Act that were not applied for or remained unobligated are available to the Secretary in carrying out projects under this chapter, as in effect on October 1, 1990.

PUB. L. 103–429

This amends 49:22108(a)(3) to clarify the restatement of 49 App.:1654(q) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 898).

REFERENCES IN TEXT

Section 5(i) of the Department of Transportation Act, referred to in subsec. (c), is section 5(i) of Pub. L. 89–670, which was classified to section 1654(i) of former Title 49, Transportation, and was repealed and reenacted as section 22106(e) of Title 49, Transportation, by Pub. L. 103–272, §§1(e), 7(b), July 5, 1994, 108 Stat. 898, 1379.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–287 substituted ''Committee on Transportation and Infrastructure'' for ''Committee on Energy and Commerce''.

1994—Subsec. (a)(3). Pub. L. 103–429 inserted ''under this subsection'' after ''appropriated''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22104 of this title.

PART C—PASSENGER TRANSPORTATION

CHAPTER 241—GENERAL

Sec.
24101. Findings, purpose, and goals.
24102. Definitions.
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24104. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 24902 of this title.

§ 24101. Findings, purpose, and goals

(a) FINDINGS.—(1) Public convenience and necessity require that Amtrak, to the extent its budget allows, provide modern, cost-efficient, and energy-efficient intercity rail passenger transportation between crowded urban areas and in other areas of the United States.

(2) Rail passenger transportation can help alleviate overcrowding of airways and airports and on highways.

(3) A traveler in the United States should have the greatest possible choice of transportation most convenient to the needs of the traveler.

(4) A greater degree of cooperation is necessary among Amtrak, other rail carriers, State, regional, and local governments, the private sector, labor organizations, and suppliers of services and equipment to Amtrak to achieve a performance level sufficient to justify expending public money.

(5) Modern and efficient commuter rail passenger transportation is important to the viabil-

ity and well-being of major urban areas and to the energy conservation and self-sufficiency goals of the United States.

(6) As a rail passenger transportation entity, Amtrak should be available to operate commuter rail passenger transportation through its subsidiary, Amtrak Commuter, under contract with commuter authorities that do not provide the transportation themselves as part of the governmental function of the State.

(7) The Northeast Corridor is a valuable resource of the United States used by intercity and commuter rail passenger transportation and freight transportation.

(8) Greater coordination between intercity and commuter rail passenger transportation is required.

(b) PURPOSE.—By using innovative operating and marketing concepts, Amtrak shall provide intercity and commuter rail passenger transportation that completely develops the potential of modern rail transportation to meet the intercity and commuter passenger transportation needs of the United States.

(c) GOALS.—Amtrak shall—

(1) use its best business judgment in acting to minimize United States Government subsidies, including—

(A) increasing fares;

(B) increasing revenue from the transportation of mail and express;

(C) reducing losses on food service;

(D) improving its contracts with operating rail carriers;

(E) reducing management costs; and

(F) increasing employee productivity;

(2) minimize Government subsidies by encouraging State, regional, and local governments and the private sector, separately or in combination, to share the cost of providing rail passenger transportation, including the cost of operating facilities;

(3) carry out strategies to achieve immediately maximum productivity and efficiency consistent with safe and efficient transportation;

(4) operate Amtrak trains, to the maximum extent feasible, to all station stops within 15 minutes of the time established in public timetables;

(5) develop transportation on rail corridors subsidized by States and private parties;

(6) implement schedules based on a systemwide average speed of at least 60 miles an hour that can be achieved with a degree of reliability and passenger comfort;

(7) encourage rail carriers to assist in improving intercity rail passenger transportation;

(8) improve generally the performance of Amtrak through comprehensive and systematic operational programs and employee incentives;

(9) carry out policies that ensure equitable access to the Northeast Corridor by intercity and commuter rail passenger transportation;

(10) coordinate the uses of the Northeast Corridor, particularly intercity and commuter rail passenger transportation; and

(11) maximize the use of its resources, including the most cost-effective use of employees, facilities, and real property.

(d) MINIMIZING GOVERNMENT SUBSIDIES.—To carry out subsection (c)(11) of this section, Amtrak is encouraged to make agreements with the private sector and undertake initiatives that are consistent with good business judgment and designed to maximize its revenues and minimize Government subsidies. Amtrak shall prepare a financial plan to operate within the funding levels authorized by section 24104 of this chapter, including budgetary goals for fiscal years 1998 through 2002. Commencing no later than the fifth anniversary of the Amtrak Reform and Accountability Act of 1997, Amtrak shall operate without Federal operating grant funds appropriated for its benefit.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 899; Pub. L. 105–134, title I, § 105(b), title II, § 201, Dec. 2, 1997, 111 Stat. 2573, 2578.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24101(a)	45:501.	Oct. 30, 1970, Pub. L. 91–518, § 101, 84 Stat. 1328; Sept. 29, 1979, Pub. L. 96–73, § 102, 93 Stat. 537; restated Aug. 13, 1981, Pub. L. 97–35, § 1171, 95 Stat. 687.
24101(b)	45:541 (2d sentence words after 1st comma).	Oct. 30, 1970, Pub. L. 91–518, § 301 (2d sentence words after 1st comma), 84 Stat. 1330; Aug. 13, 1981, Pub. L. 97–35, § 1188(a), 95 Stat. 699.
24101(c)	45:501a (less (14) (last sentence)).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 102; added Sept. 29, 1979, Pub. L. 96–73, § 103(a), 93 Stat. 537; Aug. 13, 1981, Pub. L. 97–35, § 1172, 95 Stat. 688.
24101(d)	45:501a(14) (last sentence).	

In this part, the word ''Amtrak'' is substituted for ''National Railroad Passenger Corporation'', and the words ''Amtrak Commuter'' are substituted for ''Amtrak Commuter Services Corporation'', to reflect the more current and commonly used names of the entities. The words ''rail transportation'' are substituted for ''rail service'' and ''rail services'', the word ''transportation'' is substituted for ''service'' where appropriate, and the word ''authority'' is substituted for ''agency'', as being more appropriate and for consistency in the revised title and with other titles of the United States Code. The words ''rail carrier'' are substituted for ''railroad'' because of the definitions of ''rail carrier'' and ''railroad'' in 49:10102.

In subsection (a), the words ''The Congress finds that the'' and ''The Congress further finds that'' are omitted as surplus.

In subsection (a)(3), the words ''greatest possible choice of'' are substituted for ''to the maximum extent feasible . . . the freedom to choose the mode of'' to eliminate unnecessary words.

In subsection (c), before clause (1), the words ''Amtrak shall'' are substituted for ''The Congress hereby establishes the following goals for Amtrak'' to eliminate unnecessary words. The text of 45:501a(3) and (4) is omitted as executed. The text of 45:501a(9) is omitted as obsolete because there no longer are any technical assistance panels. In clause (2), the words ''stations and other'' are omitted as surplus. In clause (4), the words ''for such operation'' are omitted as surplus. In clause (10), the word ''various'' is omitted as surplus. In clause (11), the words ''real property'' are substituted for ''real estate'' for consistency in the revised title and with other titles of the Code.

REFERENCES IN TEXT

The Amtrak Reform and Accountability Act of 1997, referred to in subsec. (d), is Pub. L. 105–134, Dec. 2, 1997, 111 Stat. 2570. For complete classification of this Act to

the Code, see Short Title of 1997 Amendment note set out under section 20101 of this title and Tables.

AMENDMENTS

1997—Subsec. (c)(2). Pub. L. 105–134, §105(b), inserted '', separately or in combination,'' after ''and the private sector''.

Subsec. (d). Pub. L. 105–134, §201, inserted at end ''Amtrak shall prepare a financial plan to operate within the funding levels authorized by section 24104 of this chapter, including budgetary goals for fiscal years 1998 through 2002. Commencing no later than the fiscal year following the fifth anniversary of the Amtrak Reform and Accountability Act of 1997, Amtrak shall operate without Federal operating grant funds appropriated for its benefit.''

AMTRAK FINDINGS

Pub. L. 105–134, §2, Dec. 2, 1997, 111 Stat. 2571, provided that: ''The Congress finds that—

''(1) intercity rail passenger service is an essential component of a national intermodal passenger transportation system;

''(2) Amtrak is facing a financial crisis, with growing and substantial debt obligations severely limiting its ability to cover operating costs and jeopardizing its long-term viability;

''(3) immediate action is required to improve Amtrak's financial condition if Amtrak is to survive;

''(4) all of Amtrak's stakeholders, including labor, management, and the Federal Government, must participate in efforts to reduce Amtrak's costs and increase its revenues;

''(5) additional flexibility is needed to allow Amtrak to operate in a businesslike manner in order to manage costs and maximize revenues;

''(6) Amtrak should ensure that new management flexibility produces cost savings without compromising safety;

''(7) Amtrak's management should be held accountable to ensure that all investment by the Federal Government and State governments is used effectively to improve the quality of service and the long-term financial health of Amtrak;

''(8) Amtrak and its employees should proceed quickly with proposals to modify collective bargaining agreements to make more efficient use of manpower and to realize cost savings which are necessary to reduce Federal financial assistance;

''(9) Amtrak and intercity bus service providers should work cooperatively and develop coordinated intermodal relationships promoting seamless transportation services which enhance travel options and increase operating efficiencies;

''(10) Amtrak's Strategic Business Plan calls for the establishment of a dedicated source of capital funding for Amtrak in order to ensure that Amtrak will be able to fulfill the goals of maintaining—

''(A) a national passenger rail system; and

''(B) that system without Federal operating assistance; and

''(11) Federal financial assistance to cover operating losses incurred by Amtrak should be eliminated by the year 2002.''

FISCAL ACCOUNTABILITY

Pub. L. 105–134, title II, §§202–205, Dec. 2, 1997, 111 Stat. 2578–2582, provided that:

''SEC. 202. INDEPENDENT ASSESSMENT.

''(a) INITIATION.—Not later than 15 days after the date of enactment of this Act [Dec. 2, 1997], the Secretary of Transportation shall contract with an entity independent of Amtrak and not in any contractual relationship with Amtrak, and independent of the Department of Transportation, to conduct a complete independent assessment of the financial requirements of Amtrak through fiscal year 2002. The entity shall have demonstrated knowledge about railroad industry accounting requirements, including the uniqueness of the industry and of Surface Transportation Board accounting requirements. The Department of Transportation, Office of Inspector General, shall approve the entity's statement of work and the award and shall oversee the contract. In carrying out its responsibilities under the preceding sentence, the Inspector General's Office shall perform such overview and validation or verification of data as may be necessary to assure that the assessment conducted under this subsection meets the requirements of this section.

''(b) ASSESSMENT CRITERIA.—The Secretary and Amtrak shall provide to the independent entity estimates of the financial requirements of Amtrak for the period described in subsection (a), using as a base the fiscal year 1997 appropriation levels established by the Congress. The independent assessment shall be based on an objective analysis of Amtrak's funding needs.

''(c) CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.—The independent assessment shall take into account all relevant factors, including Amtrak's—

''(1) cost allocation process and procedures;

''(2) expenses related to intercity rail passenger service, commuter service, and any other service Amtrak provides;

''(3) Strategic Business Plan, including Amtrak's projected expenses, capital needs, ridership, and revenue forecasts; and

''(4) assets and liabilities.

For purposes of paragraph (3), in the capital needs part of its Strategic Business Plan Amtrak shall distinguish between that portion of the capital required for the Northeast Corridor and that required outside the Northeast Corridor, and shall include rolling stock requirements, including capital leases, 'state of good repair' requirements, and infrastructure improvements.

''(d) BIDDING PRACTICES.—

''(1) STUDY.—The independent assessment also shall determine whether, and to what extent, Amtrak has performed each year during the period from 1992 through 1996 services under contract at amounts less than the cost to Amtrak of performing such services with respect to any activity other than the provision of intercity rail passenger transportation, or mail or express transportation. For purposes of this clause, the cost to Amtrak of performing services shall be determined using generally accepted accounting principles for contracting. If identified, such contracts shall be detailed in the report of the independent assessment, as well as the methodology for preparation of bids to reflect Amtrak's actual cost of performance.

''(2) REFORM.—If the independent assessment performed under this subparagraph reveals that Amtrak has performed services under contract for an amount less than the cost to Amtrak of performing such services, with respect to any activity other than the provision of intercity rail passenger transportation, or mail or express transportation, then Amtrak shall revise its methodology for preparation of bids to reflect its cost of performance.

''(e) DEADLINE.—The independent assessment shall be completed not later than 180 days after the contract is awarded, and shall be submitted to the Council established under section 203, the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the United States Senate, and the Committee on Transportation and Infrastructure of the United States House of Representatives.

''SEC. 203. AMTRAK REFORM COUNCIL.

''(a) ESTABLISHMENT.—There is established an independent commission to be known as the Amtrak Reform Council.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Council shall consist of 11 members, as follows:

''(A) The Secretary of Transportation.

''(B) Two individuals appointed by the President, of which—

''(i) one shall be a representative of a rail labor organization; and

''(ii) one shall be a representative of rail management.

''(C) Three individuals appointed by the Majority Leader of the United States Senate.

''(D) One individual appointed by the Minority Leader of the United States Senate.

''(E) Three individuals appointed by the Speaker of the United States House of Representatives.

''(F) One individual appointed by the Minority Leader of the United States House of Representatives.

''(2) APPOINTMENT CRITERIA.—

''(A) TIME FOR INITIAL APPOINTMENTS.—Appointments under paragraph (1) shall be made within 30 days after the date of enactment of this Act [Dec. 2, 1997].

''(B) EXPERTISE.—Individuals appointed under subparagraphs (C) through (F) of paragraph (1)—

''(i) may not be employees of the United States;

''(ii) may not be board members or employees of Amtrak;

''(iii) may not be representatives of rail labor organizations or rail management; and

''(iv) shall have technical qualifications, professional standing, and demonstrated expertise in the field of corporate management, finance, rail or other transportation operations, labor, economics, or the law, or other areas of expertise relevant to the Council.

''(3) TERM.—Members shall serve for terms of 5 years. If a vacancy occurs other than by the expiration of a term, the individual appointed to fill the vacancy shall be appointed in the same manner as, and shall serve only for the unexpired portion of the term for which, that individual's predecessor was appointed.

''(4) CHAIRMAN.—The Council shall elect a chairman from among its membership within 15 days after the earlier of—

''(A) the date on which all members of the Council have been appointed under paragraph (2)(A); or

''(B) 45 days after the date of enactment of this Act.

''(5) MAJORITY REQUIRED FOR ACTION.—A majority of the members of the Council present and voting is required for the Council to take action. No person shall be elected chairman of the Council who receives fewer than 5 votes.

''(c) ADMINISTRATIVE SUPPORT.—The Secretary of Transportation shall provide such administrative support to the Council as it needs in order to carry out its duties under this section.

''(d) TRAVEL EXPENSES.—Each member of the Council shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section[s] 5702 and 5703 of title 5, United States Code.

''(e) MEETINGS.—Each meeting of the Council, other than a meeting at which proprietary information is to be discussed, shall be open to the public.

''(f) ACCESS TO INFORMATION.—Amtrak shall make available to the Council all information the Council requires to carry out its duties under this section. The Council shall establish appropriate procedures to ensure against the public disclosure of any information obtained under this subsection that is a trade secret or commercial or financial information that is privileged or confidential.

''(g) DUTIES.—

''(1) EVALUATION AND RECOMMENDATION.—The Council shall—

''(A) evaluate Amtrak's performance; and

''(B) make recommendations to Amtrak for achieving further cost containment and productivity improvements, and financial reforms.

''(2) SPECIFIC CONSIDERATIONS.—In making its evaluation and recommendations under paragraph (1), the Council shall consider all relevant performance factors, including—

''(A) Amtrak's operation as a national passenger rail system which provides access to all regions of the country and ties together existing and emerging rail passenger corridors;

''(B) appropriate methods for adoption of uniform cost and accounting procedures throughout the Amtrak system, based on generally accepted accounting principles; and

''(C) management efficiencies and revenue enhancements, including savings achieved through labor and contracting negotiations.

''(3) MONITOR WORK-RULE SAVINGS.—If, after January 1, 1997, Amtrak enters into an agreement involving work-rules intended to achieve savings with an organization representing Amtrak employees, then Amtrak shall report quarterly to the Council—

''(A) the savings realized as a result of the agreement; and

''(B) how the savings are allocated.

''(h) ANNUAL REPORT.—Each year before the fifth anniversary of the date of enactment of this Act [Dec. 2, 1997], the Council shall submit to the Congress a report that includes an assessment of—

''(1) Amtrak's progress on the resolution of productivity issues; or

''(2) the status of those productivity issues,

and makes recommendations for improvements and for any changes in law it believes to be necessary or appropriate.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Council such sums as may be necessary to enable the Council to carry out its duties.

''SEC. 204. SUNSET TRIGGER.

''(a) IN GENERAL.—If at any time more than 2 years after the date of enactment of this Act [Dec. 2, 1997] and implementation of the financial plan referred to in section 24104(d) [24101(d)] of title 49, United States Code, as amended by section 201 of this Act, the Amtrak Reform Council finds that—

''(1) Amtrak's business performance will prevent it from meeting the financial goals set forth in section 24104(d) [24101(d)] of title 49, United States Code, as amended by section 201 of this Act; or

''(2) Amtrak will require operating grant funds after the fifth anniversary of the date of enactment of this Act,

then the Council shall immediately notify the President, the Committee on Commerce, Science, and Transportation of the United States Senate, and the Committee on Transportation and Infrastructure of the United States House of Representatives.

''(b) FACTORS CONSIDERED.—In making a finding under subsection (a), the Council shall take into account—

''(1) Amtrak's performance;

''(2) the findings of the independent assessment conducted under section 202;

''(3) the level of Federal funds made available for carrying out the financial plan referred to in section 24104(d) [24101(d)] of title 49, United States Code, as amended by section 201 of this Act; and

''(4) Acts of God, national emergencies, and other events beyond the reasonable control of Amtrak.

''(c) ACTION PLAN.—Within 90 days after the Council makes a finding under subsection (a)—

''(1) it shall develop and submit to the Congress an action plan for a restructured and rationalized national intercity rail passenger system; and

''(2) Amtrak shall develop and submit to the Congress an action plan for the complete liquidation of Amtrak, after having the plan reviewed by the Inspector General of the Department of Transportation and the General Accounting Office for accuracy and reasonableness.

''SEC. 205. SENATE PROCEDURE FOR CONSIDERATION OF RESTRUCTURING AND LIQUIDATION PLANS.

''(a) IN GENERAL.—If, within 90 days (not counting any day on which either House is not in session) after

a restructuring plan is submitted to the House of Representatives and the Senate by the Amtrak Reform Council under section 204 of this Act, an implementing Act with respect to a restructuring plan (without regard to whether it is the plan submitted) has not been passed by the Congress, then a liquidation disapproval resolution shall be introduced in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. The liquidation disapproval resolution shall be held at the desk at the request of the Presiding Officer.

''(b) CONSIDERATION IN THE SENATE.—

''(1) REFERRAL AND REPORTING.—A liquidation disapproval resolution introduced in the Senate shall be placed directly and immediately on the Calendar.

''(2) IMPLEMENTING RESOLUTION FROM HOUSE.—When the Senate receives from the House of Representatives a liquidation disapproval resolution, the resolution shall not be referred to committee and shall be placed on the Calendar.

''(3) CONSIDERATION OF SINGLE LIQUIDATION DISAPPROVAL RESOLUTION.—After the Senate has proceeded to the consideration of a liquidation disapproval resolution under this subsection, then no other liquidation disapproval resolution originating in that same House shall be subject to the procedures set forth in this section.

''(4) AMENDMENTS.—No amendment to the resolution is in order except an amendment that is relevant to liquidation of Amtrak. Consideration of the resolution for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except for perfecting amendments.

''(5) MOTION NONDEBATABLE.—A motion to proceed to consideration of a liquidation disapproval resolution under this subsection shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.

''(6) LIMIT ON CONSIDERATION.—

''(A) After no more than 20 hours of consideration of a liquidation disapproval resolution, the Senate shall proceed, without intervening action or debate (except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all amendments not then pending and to the exclusion of all motions, except a motion to reconsider or table.

''(B) The time for debate on the liquidation disapproval resolution shall be equally divided between the Majority Leader and the Minority Leader or their designees.

''(7) DEBATE OF AMENDMENTS.—Debate on any amendment to a liquidation disapproval resolution shall be limited to one hour, equally divided and controlled by the Senator proposing the amendment and the majority manager, unless the majority manager is in favor of the amendment, in which case the minority manager shall be in control of the time in opposition.

''(8) NO MOTION TO RECOMMIT.—A motion to recommit a liquidation disapproval resolution shall not be in order.

''(9) DISPOSITION OF SENATE RESOLUTION.—If the Senate has read for the third time a liquidation disapproval resolution that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of a liquidation disapproval resolution for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (2), strike all after the enacting clause, substitute the text of the Senate liquidation disapproval resolution, agree to the Senate amendment, and vote on final disposition of the House liquidation disapproval resolution, all without any intervening action or debate.

''(10) CONSIDERATION OF HOUSE MESSAGE.—Consideration in the Senate of all motions, amendments, or appeals necessary to dispose of a message from the House of Representatives on a liquidation disapproval resolution shall be limited to not more than 4 hours. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the House message shall be limited to 20 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.

''(c) CONSIDERATION IN CONFERENCE.—

''(1) CONVENING OF CONFERENCE.—In the case of disagreement between the two Houses of Congress with respect to a liquidation disapproval resolution passed by both Houses, conferees should be promptly appointed and a conference promptly convened, if necessary.

''(2) SENATE CONSIDERATION.—Consideration in the Senate of the conference report and any amendments in disagreement on a liquidation disapproval resolution shall be limited to not more than 4 hours equally divided and controlled by the Majority Leader and the Minority Leader or their designees. A motion to recommit the conference report is not in order.

''(d) DEFINITIONS.—For purposes of this section—

''(1) LIQUIDATION DISAPPROVAL RESOLUTION.—The term 'liquidation disapproval resolution' means only a resolution of either House of Congress which is introduced as provided in subsection (a) with respect to the liquidation of Amtrak.

''(2) RESTRUCTURING PLAN.—The term 'restructuring plan' means a plan to provide for a restructured and rationalized national intercity rail passenger transportation system.

''(e) RULES OF SENATE.—This section is enacted by the Congress—

''(1) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a liquidation disapproval resolution; and they supersede other rules only to the extent that they are inconsistent therewith; and

''(2) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.''

INTERSTATE RAIL COMPACTS

Pub. L. 105–134, title IV, § 410, Dec. 2, 1997, 111 Stat. 2587, provided that:

''(a) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

''(1) retaining an existing service or commencing a new service;

''(2) assembling rights-of-way; and

''(3) performing capital improvements, including—

''(A) the construction and rehabilitation of maintenance facilities;

''(B) the purchase of locomotives; and

''(C) operational improvements, including communications, signals, and other systems.

''(b) FINANCING.—An interstate compact established by States under subsection (a) may provide that, in order to carry out the compact, the States may—

''(1) accept contributions from a unit of State or local government or a person;

''(2) use any Federal or State funds made available for intercity passenger rail service (except funds made available for Amtrak);

''(3) on such terms and conditions as the States consider advisable—

''(A) borrow money on a short-term basis and issue notes for the borrowing; and

''(B) issue bonds; and

''(4) obtain financing by other means permitted under Federal or State law.''

§ 24102. Definitions

In this part—

(1) ''auto-ferry transportation'' means intercity rail passenger transportation—

(A) of automobiles or recreational vehicles and their occupants; and

(B) when space is available, of used unoccupied vehicles.

(2) ''basic system'' means the system of intercity rail passenger transportation designated by the Secretary of Transportation under section 4 of the Amtrak Improvement Act of 1978 and approved by Congress, and transportation required to be provided under section 24705(a)[1] of this title and section 4(g) of the Act, including changes in the system or transportation that Amtrak makes using the route and service criteria.

(3) ''commuter authority'' means a State, local, or regional entity established to provide, or make a contract providing for, commuter rail passenger transportation.

(4) ''commuter rail passenger transportation'' means short-haul rail passenger transportation in metropolitan and suburban areas usually having reduced fare, multiple-ride, and commuter tickets and morning and evening peak period operations.

(5) ''intercity rail passenger transportation'' means rail passenger transportation, except commuter rail passenger transportation.

(6) ''Northeast Corridor'' means Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island.

(7) ''rail carrier'' means a person, including a unit of State or local government, providing rail transportation for compensation.

(8) ''rate'' means a rate, fare, or charge for rail transportation.

(9) ''regional transportation authority'' means an entity established to provide passenger transportation in a region.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 900; Pub. L. 105–134, title IV, § 407, Dec. 2, 1997, 111 Stat. 2586.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24102(1)	45:502(1).	Oct. 30, 1970, Pub. L. 91–518, § 103(1), 84 Stat. 1328; restated Sept. 29, 1979, Pub. L. 96–73, §§ 103(a), 104, 93 Stat. 537, 538.
	45:502(2).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 103(2); added Aug. 13, 1981, Pub. L. 97–35, § 1173(2), 95 Stat. 689.
	45:502(3).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 103(3); added Nov. 3, 1973, Pub. L. 93–146, § 2(2), 87 Stat. 548; restated Sept. 29, 1979, Pub. L. 96–73, §§ 103(a), 104, 93 Stat. 537, 538; Aug. 13, 1981, Pub. L. 97–35, § 1173(1), 95 Stat. 689; Apr. 7, 1986, Pub. L. 99–272, § 4012, 100 Stat. 109.
	45:502(6), (7), (10), (12), (14), (18).	Oct. 30, 1970, Pub. L. 91–518, § 103(4)–(7), (10), (12), (14)–(18), 84 Stat. 1328; restated Sept. 29, 1979, Pub. L. 96–73, §§ 103(a), 104, 93 Stat. 537, 538, 539; Aug. 13, 1981, Pub. L. 97–35, § 1173(1), 95 Stat. 689; Oct. 27, 1992, Pub. L. 102–533, § 8(1), 106 Stat. 3519.
24102(2)	45:502(4).	
24102(3)	45:502(5).	
24102(4)	45:502(8).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 103(8), (9); added Aug. 13, 1981, Pub. L. 97–35, § 1173(3), 95 Stat. 689.
24102(5)	45:502(9).	
24102(6)	45:502(11).	Oct. 30, 1970, Pub. L. 91–518, § 103(11), 84 Stat. 1328; Nov. 3, 1973, Pub. L. 93–146, § 2(1), 87 Stat. 548; restated Sept. 29, 1979, Pub. L. 96–73, §§ 103(a), 104, 93 Stat. 537, 539; Aug. 13, 1981, Pub. L. 97–35, § 1173(1), (4), 95 Stat. 689.
24102(7)	45:502(13).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 103(13); added Oct. 27, 1992, Pub. L. 102–533, § 8(2), 106 Stat. 3519.
	45:851(c).	Feb. 5, 1976, Pub. L. 94–210, § 701(c), 90 Stat. 120.
24102(8)	45:502(14).	
24102(9)	(no source).	
24102(10)	45:502(15).	
24102(11)	45:502(16).	

In clause (1), before subclause (A), the text of 45:502(1), (2), and (10) is omitted as surplus. The text of 45:502(6), (7), (12), (14), and (18) is omitted because the complete names of the Performance Evaluation Center, Interstate Commerce Commission, Railroad Safety System Program, Technical Assistance Panel, and Secretary of Transportation are used the first time the terms appear in a section. The words ''characterized by transportation'' are omitted as surplus.

In clause (3), the text of 45:502(5)(A) and the words ''on and after October 1, 1979'' are omitted as obsolete. Reference to 45:564(e) is omitted as obsolete because 45:564(e) was repealed by section 1183(d) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35, 95 Stat. 697).

In clauses (4) and (10), the words ''authority, corporation, or other'' are omitted as surplus.

In clause (4), the words ''and includes the Metropolitan Transportation Authority, the Connecticut Department of Transportation, the Maryland Department of Transportation the Southeastern Pennsylvania Transportation Authority, the New Jersey Transit Corporation, the Massachusetts Bay Transportation Authority, the Port Authority Trans-Hudson Corporation, any successor agencies, and any entity created by one or more such agencies for the purpose of operating'' are omitted as surplus.

In clause (5), the words ''whether within or across the geographical boundaries of a State'' are omitted as surplus.

Clause (9) is added to eliminate repetition of the words ''fares or charges'' throughout this part.

REFERENCES IN TEXT

Section 4 of the Amtrak Improvement Act of 1978, referred to in par. (2), is section 4 of Pub. L. 95–421, which was set out as a note under section 521 of Title 45, Railroads, prior to repeal by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379.

[1] See References in Text note below.

Section 24705 of this title, referred to in par. (2), was repealed by Pub. L. 105–134, title I, §104, Dec. 2, 1997, 111 Stat. 2573.

AMENDMENTS

1997—Pars. (2) to (6). Pub. L. 105–134, §407(1), (2), redesignated pars. (3) to (7) as (2) to (6), respectively, and struck out former par. (2) which read as follows: '''avoidable loss' means the avoidable costs of providing rail passenger transportation, less revenue attributable to the transportation, as determined by the Interstate Commerce Commission under section 553 of title 5.''

Par. (7). Pub. L. 105–134, §407(2), (3), redesignated par. (8) as (7) and inserted '', including a unit of State or local government,'' after ''means a person''. Former par. (7) redesignated (6).

Pars. (8) to (10). Pub. L. 105–134, §407(2), redesignated pars. (8) to (10) as (7) to (9), respectively.

Par. (11). Pub. L. 105–134, §407(1), struck out par. (11) which read as follows: '''route and service criteria' means the criteria and procedures for making route and service decisions established under section 404(c)(1)–(3)(A) of the Rail Passenger Service Act.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 12131; title 45 section 837.

§ 24103. Enforcement

(a) GENERAL.—(1) Except as provided in paragraph (2) of this subsection, only the Attorney General may bring a civil action for equitable relief in a district court of the United States when Amtrak or a rail carrier—

(A) engages in or adheres to an action, practice, or policy inconsistent with this part;

(B) obstructs or interferes with an activity authorized under this part;

(C) refuses, fails, or neglects to discharge its duties and responsibilities under this part; or

(D) threatens—

(i) to engage in or adhere to an action, practice, or policy inconsistent with this part;

(ii) to obstruct or interfere with an activity authorized by this part; or

(iii) to refuse, fail, or neglect to discharge its duties and responsibilities under this part.

(2) An employee affected by any conduct or threat referred to in paragraph (1) of this subsection, or an authorized employee representative, may bring the civil action if the conduct or threat involves a labor agreement.

(b) REVIEW OF DISCONTINUANCE OR REDUCTION.—A discontinuance of a route, a train, or transportation, or a reduction in the frequency of transportation, by Amtrak is reviewable only in a civil action for equitable relief brought by the Attorney General.

(c) VENUE.—Except as otherwise prohibited by law, a civil action under this section may be brought in the judicial district in which Amtrak or the rail carrier resides or is found.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 901.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24103(a)	45:547(a) (1st sentence less words between 13th–15th commas).	Oct. 30, 1970, Pub. L. 91–518, §307(a) (1st sentence), (b), 84 Stat. 1333.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24103(b)	45:547(a) (last sentence).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §307(a) (last sentence); added Aug. 13, 1981, Pub. L. 97–35, §1179, 95 Stat. 693.
24103(c)	45:547(a) (1st sentence words between 13th–15th commas), (b).	

In subsections (a) and (b), the words ''may bring a civil action'', ''may bring the civil action'', and ''in a civil action brought by'' are substituted for ''upon petition of'' and ''on petition of'' for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (a)(1), before clause (A), the words ''Except as provided in paragraph (2) of this subsection'' are added for clarity. The word ''only'' is added for clarity. See *National Railroad Passenger Corp. et al.* v. *National Association of Railroad Passengers*, 414 U.S. 453 (1974). In clauses (A) and (D)(i), the words ''the policies and purposes of'' are omitted as surplus.

In subsection (a)(2), the word ''duly'' is omitted as surplus.

In subsection (b), the words ''in any court'' are omitted as surplus.

Subsection (c) is substituted for 45:547(a) (1st sentence words between 13th–15th commas) for consistency in the revised title and with other titles of the United States Code. The text of 45:547(b) is omitted as surplus.

§ 24104. Authorization of appropriations

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation—

(1) $1,138,000,000 for fiscal year 1998;
(2) $1,058,000,000 for fiscal year 1999;
(3) $1,023,000,000 for fiscal year 2000;
(4) $989,000,000 for fiscal year 2001; and
(5) $955,000,000 for fiscal year 2002,

for the benefit of Amtrak for capital expenditures under chapters 243, 247, and 249 of this title, operating expenses, and payments described in subsection (c)(1)(A) through (C). In fiscal years following the fifth anniversary of the enactment of the Amtrak Reform and Accountability Act of 1997 no funds authorized for Amtrak shall be used for operating expenses other than those prescribed for tax liabilities under section 3221 of the Internal Revenue Code of 1986 that are more than the amount needed for benefits of individuals who retire from Amtrak and for their beneficiaries.

(b) OPERATING EXPENSES.—(1) Not more than $381,000,000 may be appropriated to the Secretary for each of the fiscal years ending September 30, 1993, and September 30, 1994, for the benefit of Amtrak for operating expenses. Not more than 5 percent of the amounts appropriated for each fiscal year shall be used to pay operating expenses under section 24704[1] of this title for transportation in operation on September 30, 1992.

(2)(A) Not more than the following amounts may be appropriated to the Secretary for the benefit of Amtrak for operating losses under section 24704[1] of this title for transportation beginning after September 30, 1992:

(i) $7,500,000 for the fiscal year ending September 30, 1993.

[1] See References in Text note below.

(ii) $9,500,000 for the fiscal year ending September 30, 1994.

(B) The expenditure by Amtrak of an amount appropriated under subparagraph (A) of this paragraph is deemed not to be an operating expense when calculating the revenue-to-operating expense ratio of Amtrak.

(c) MANDATORY PAYMENTS.—(1) Not more than $150,000,000 for the fiscal year ending September 30, 1993, and amounts that may be necessary for the fiscal year ending September 30, 1994, may be appropriated to the Secretary to pay—

(A) tax liabilities under section 3221 of the Internal Revenue Code of 1986 (26 U.S.C. 3221) due in those fiscal years that are more than the amount needed for benefits for individuals who retire from Amtrak and for their beneficiaries;

(B) obligations of Amtrak under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) due in those fiscal years that are more than obligations of Amtrak calculated on an experience-related basis; and

(C) obligations of Amtrak due under section 3321 of the Code (26 U.S.C. 3321).

(2) Amounts appropriated under this subsection are not a United States Government subsidy of Amtrak.

(d) PAYMENT TO AMTRAK.—Amounts appropriated under this section shall be paid to Amtrak under the budget request of the Secretary as approved or modified by Congress when the amounts are appropriated. A payment may not be made more frequently than once every 90 days, unless Amtrak, for good cause, requests more frequent payment before a 90-day period ends. In each fiscal year in which amounts are authorized to be appropriated under this section, amounts appropriated shall be paid to Amtrak as follows:

(1) 50 percent on October 1.

(2) 25 percent on January 1.

(3) 25 percent on April 1.

(e) AVAILABILITY OF AMOUNTS AND EARLY APPROPRIATIONS.—(1) Amounts appropriated under this section remain available until expended.

(2) Amounts for capital acquisitions and improvements may be appropriated in a fiscal year before the fiscal year in which the amounts will be obligated.

(f) LIMITATIONS ON USE.—Amounts appropriated under this section may not be used to subsidize operating losses of commuter rail passenger or rail freight transportation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 902; Pub. L. 105–134, title III, § 301(a), Dec. 2, 1997, 111 Stat. 2585.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24104(a)	45:601(a).	Oct. 30, 1970, Pub. L. 91–518, § 601, 84 Stat. 1338; June 22, 1972, Pub. L. 92–316, § 9, 86 Stat. 231; Nov. 3, 1973, Pub. L. 93–146, § 12, 87 Stat. 553; Oct. 28, 1974, Pub. L. 93–496, § 8, 88 Stat. 1530; May 26, 1975, Pub. L. 94–25, § 10, 89 Stat. 92; Oct. 19, 1976, Pub. L. 94–555, § 102(a), (b), 90 Stat. 2613; Oct. 5, 1978, Pub. L. 95–421, §§ 2(a), (b)(1), 3, 92 Stat. 923; Sept. 29, 1979, Pub. L. 96–73, § 122(a), (b)(1), 93 Stat. 550; May 30, 1980, Pub. L. 96–254, §§ 208, 211, 94 Stat. 414, 415; Aug. 13, 1981, Pub. L. 97–35, §§ 1138, 1139(a), 1185, 95 Stat. 652, 697; Jan. 14, 1983, Pub. L. 97–468, § 302(c), 96 Stat. 2550; Apr. 7, 1986, Pub. L. 99–272, § 4002, 100 Stat. 106; July 6, 1990, Pub. L. 101–322, § 2, 104 Stat. 295; restated Oct. 27, 1992, Pub. L. 102–533, § 7(a), 106 Stat. 3517.
24104(b)	45:601(b).	
24104(c)	45:601(c).	
24104(d)	45:601(d) (3d, last sentences), (e).	
24104(e)(1) ..	45:601(d) (2d sentence).	
24104(e)(2) ..	45:601(d) (1st sentence).	
24104(f)	45:854(b)(1) (related to 45:601).	Feb. 5, 1976, Pub. L. 94–210, § 704(b)(1) (related to § 601), 90 Stat. 123; Jan. 14, 1983, Pub. L. 97–468, § 301(4)(A), 96 Stat. 2549.

In subsection (a)(2), before clause (A), the words ''In addition to amounts that may be appropriated under section 24909 of this title'' are added for clarity.

In subsection (a)(3)(B) and (C), the words ''or States'' are omitted because of 1:1. Before each clause (i), the words ''Except as provided in clause (ii)'' are omitted as surplus.

In subsection (d), before clause (1), the words ''by the Secretary'' and ''for expenditure by it'' are omitted as surplus.

In subsection (e)(2), the words ''Funds appropriated pursuant to this section shall be made available to the Secretary during the fiscal year for which appropriated'' are omitted as surplus.

REFERENCES IN TEXT

The enactment of the Amtrak Reform and Accountability Act of 1997, referred to in subsec. (a), probably means the date of enactment of Pub. L. 105–134, which was approved Dec. 2, 1997.

Section 3221 of the Internal Revenue Code of 1986, referred to in subsec. (a), is classified to section 3221 of Title 26, Internal Revenue Code.

Section 24704 of this title, referred to in subsec. (b), was repealed by Pub. L. 105–134, title I, § 105(a), Dec. 2, 1997, 111 Stat. 2573.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–134 amended heading and text of subsec. (a) generally. Prior to amendment, subsec. (a) related to capital acquisition and corridor development.

LIMITATION ON USE OF TAX REFUND

Pub. L. 105–134, title II, § 209, Dec. 2, 1997, 111 Stat. 2584, provided that:

''(a) IN GENERAL.—Amtrak may not use any amount received under section 977 of the Taxpayer Relief Act of 1997 [Pub. L. 105–34, 26 U.S.C. 172 note]—

''(1) for any purpose other than making payments to non-Amtrak States (pursuant to section 977(c) of that Act), or the financing of qualified expenses (as

that term is defined in section 977(e)(1) of that Act); or

''(2) to offset other amounts used for any purpose other than the financing of such expenses.

''(b) REPORT BY ARC.—The Amtrak Reform Council shall report quarterly to the Congress on the use of amounts received by Amtrak under section 977 of the Taxpayer Relief Act of 1997.''

REFORM BOARD

Pub. L. 105–134, title IV, §411(b), Dec. 2, 1997, 111 Stat. 2589, provided that: ''If the Reform Board has not assumed the responsibilities of the Board of Directors of Amtrak before July 1, 1998, all provisions authorizing appropriations under the amendments made by section 301(a) of this Act [amending this section] for a fiscal year after fiscal year 1998 shall cease to be effective. The preceding sentence shall have no effect on funds provided to Amtrak pursuant to section 977 of the Taxpayer Relief Act of 1997 [Pub. L. 105–34, 26 U.S.C. 172 note].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 24101 of this title.

CHAPTER 243—AMTRAK

Sec.
24301. Status and applicable laws.
24302. Board of directors.[1]
24303. Officers.
24304. Employee stock ownership plans.
24305. General authority.
24306. Mail, express, and auto-ferry transportation.
24307. Special transportation.
24308. Use of facilities and providing services to Amtrak.
24309. Retaining and maintaining facilities.
[24310. Repealed.]
24311. Acquiring interests in property by eminent domain.
24312. Labor standards.
24313. Rail safety system program.
[24314. Repealed.]
24315. Reports and audits.

AMENDMENTS

1997—Pub. L. 105–134, title IV, §§403, 404, 415(a)(2), Dec. 2, 1997, 111 Stat. 2585, 2586, 2590, substituted ''Employee stock ownership plans'' for ''Capitalization'' in item 24304 and struck out item 24310 ''Assistance for upgrading facilities'' and item 24314 ''Demonstration of new technology''.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 24104, 24902 of this title; title 45 section 1104.

§ 24301. Status and applicable laws

(a) STATUS.—Amtrak—

(1) is a railroad carrier under section 20102(2) and chapters 261 and 281 of this title;

(2) shall be operated and managed as a for-profit corporation; and

(3) is not a department, agency, or instrumentality of the United States Government, and shall not be subject to title 31.

(b) PRINCIPAL OFFICE AND PLACE OF BUSINESS.—The principal office and place of business of Amtrak are in the District of Columbia. Amtrak is qualified to do business in each State in which Amtrak carries out an activity authorized under this part. Amtrak shall accept service of process by certified mail addressed to the secretary of Amtrak at its principal office and place of business. Amtrak is a citizen only of the District of Columbia when deciding original jurisdiction of the district courts of the United States in a civil action.

(c) APPLICATION OF SUBTITLE IV.—Subtitle IV of this title shall not apply to Amtrak, except for sections 11301, 11322(a), 11502, and 11706. Notwithstanding the preceding sentence, Amtrak shall continue to be considered an employer under the Railroad Retirement Act of 1974, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act.

(d) APPLICATION OF SAFETY AND EMPLOYEE RELATIONS LAWS AND REGULATIONS.—Laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees that apply to a rail carrier subject to part A of subtitle IV of this title apply to Amtrak.

(e) APPLICATION OF CERTAIN ADDITIONAL LAWS.—Section 552 of title 5, this part, and, to the extent consistent with this part, the District of Columbia Business Corporation Act (D.C. Code §29–301 et seq.) apply to Amtrak. Section 552 of title 5, United States Code, applies to Amtrak for any fiscal year in which Amtrak receives a Federal subsidy.

(f) TAX EXEMPTION FOR CERTAIN COMMUTER AUTHORITIES.—A commuter authority that was eligible to make a contract with Amtrak Commuter to provide commuter rail passenger transportation but which decided to provide its own rail passenger transportation beginning January 1, 1983, is exempt, effective October 1, 1981, from paying a tax or fee to the same extent Amtrak is exempt.

(g) NONAPPLICATION OF RATE, ROUTE, AND SERVICE LAWS.—A State or other law related to rates, routes, or service does not apply to Amtrak in connection with rail passenger transportation.

(h) NONAPPLICATION OF PAY PERIOD LAWS.—A State or local law related to pay periods or days for payment of employees does not apply to Amtrak. Except when otherwise provided under a collective bargaining agreement, an employee of Amtrak shall be paid at least as frequently as the employee was paid on October 1, 1979.

(i) PREEMPTION RELATED TO EMPLOYEE WORK REQUIREMENTS.—A State may not adopt or continue in force a law, rule, regulation, order, or standard requiring Amtrak to employ a specified number of individuals to perform a particular task, function, or operation.

(j) NONAPPLICATION OF LAWS ON JOINT USE OR OPERATION OF FACILITIES AND EQUIPMENT.—Prohibitions of law applicable to an agreement for the joint use or operation of facilities and equipment necessary to provide quick and efficient rail passenger transportation do not apply to a person making an agreement with Amtrak to the extent necessary to allow the person to make and carry out obligations under the agreement.

(k) EXEMPTION FROM ADDITIONAL TAXES.—(1) In this subsection—

[1] Section catchline amended by Pub. L. 105–134 without corresponding amendment of chapter analysis.

(A) ''additional tax'' means a tax or fee—

(i) on the acquisition, improvement, ownership, or operation of personal property by Amtrak; and

(ii) on real property, except a tax or fee on the acquisition of real property or on the value of real property not attributable to improvements made, or the operation of those improvements, by Amtrak.

(B) ''Amtrak'' includes a rail carrier subsidiary of Amtrak and a lessor or lessee of Amtrak or one of its rail carrier subsidiaries.

(2) Amtrak is not required to pay an additional tax because of an expenditure to acquire or improve real property, equipment, a facility, or right-of-way material or structures used in providing rail passenger transportation, even if that use is indirect.

(*l*) EXEMPTION FROM TAXES LEVIED AFTER SEPTEMBER 30, 1981.—(1) IN GENERAL.—Amtrak, a rail carrier subsidiary of Amtrak, and any passenger or other customer of Amtrak or such subsidiary, are exempt from a tax, fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority on Amtrak, a rail carrier subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom after September 30, 1981. In the case of a tax or fee that Amtrak was required to pay as of September 10, 1982, Amtrak is not exempt from such tax or fee if it was assessed before April 1, 1997.

(2) The district courts of the United States have original jurisdiction over a civil action Amtrak brings to enforce this subsection and may grant equitable or declaratory relief requested by Amtrak.

(m) WASTE DISPOSAL.—(1) An intercity rail passenger car manufactured after October 14, 1990, shall be built to provide for the discharge of human waste only at a servicing facility. Amtrak shall retrofit each of its intercity rail passenger cars that was manufactured after May 1, 1971, and before October 15, 1990, with a human waste disposal system that provides for the discharge of human waste only at a servicing facility. Subject to appropriations—

(A) the retrofit program shall be completed not later than October 15, 2001; and

(B) a car that does not provide for the discharge of human waste only at a servicing facility shall be removed from service after that date.

(2) Section 361 of the Public Health Service Act (42 U.S.C. 264) and other laws of the United States, States, and local governments do not apply to waste disposal from rail carrier vehicles operated in intercity rail passenger transportation. The district courts of the United States have original jurisdiction over a civil action Amtrak brings to enforce this paragraph and may grant equitable or declaratory relief requested by Amtrak.

(n) RAIL TRANSPORTATION TREATED EQUALLY.—When authorizing transportation in the continental United States for an officer, employee, or member of the uniformed services of a department, agency, or instrumentality of the Government, the head of that department, agency, or instrumentality shall consider rail transportation (including transportation by extra-fare trains) the same as transportation by another authorized mode. The Administrator of General Services shall include Amtrak in the contract air program of the Administrator in markets in which transportation provided by Amtrak is competitive with other carriers on fares and total trip times.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 904; Pub. L. 104–88, title III, § 308(g), Dec. 29, 1995, 109 Stat. 947; Pub. L. 105–134, title I, §§ 106(b), 110(a), title II, § 208, title IV, §§ 401, 402, 415(d)(1), Dec. 2, 1997, 111 Stat. 2573, 2574, 2584, 2585, 2590.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24301(a)	45:541 (1st sentence).	Oct. 30, 1970, Pub. L. 91–518, § 301 (1st, 4th, last sentences), 84 Stat. 1330.
	45:541 (2d sentence words before 1st comma).	Oct. 30, 1970, Pub. L. 91–518, § 301 (2d sentence words before 1st comma), 84 Stat. 1330; Oct. 5, 1978, Pub. L. 95–421, § 11, 92 Stat. 928.
	45:541 (3d sentence).	Oct. 30, 1970, Pub. L. 91–518, § 301 (3d sentence), 84 Stat. 1330; June 22, 1988, Pub. L. 100–342, § 18(a), 102 Stat. 636.
	45:541 (last sentence).	
	45:546(a) (words after ''The Corporation'' and before ''and shall be subject to'').	Oct. 30, 1970, Pub. L. 91–518, § 306(a), 84 Stat. 1332; June 22, 1972, Pub. L. 92–316, § 3(a), 86 Stat. 228; Sept. 29, 1979, Pub. L. 96–73, § 112(a), 93 Stat. 541; Apr. 7, 1986, Pub. L. 99–272, § 4015, 100 Stat. 110.
24301(b)	45:546(m).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 306(m); added Sept. 29, 1979, Pub. L. 96–73, § 112(c), 93 Stat. 541; Apr. 7, 1986, Pub. L. 99–272, § 4013, 100 Stat. 109.
24301(c)(1), (2)(A).	45:546(a) (less words after ''The Corporation'' and before ''and shall be subject to'').	
24301(c)(2)(B).	45:546a.	Oct. 5, 1978, Pub. L. 95–421, § 7, 92 Stat. 927.
24301(d)	45:546(b).	Oct. 30, 1970, Pub. L. 91–518, §§ 305(a) (last sentence), 306(b)–(e), 84 Stat. 1332, 1333.
24301(e)	45:541 (4th sentence).	
	45:545(a) (last sentence).	
	45:545(e)(8).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 305(e)(8); added Nov. 3, 1973, Pub. L. 93–146, § 6, 87 Stat. 551.
	45:546(g).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 306(g); added June 22, 1972, Pub. L. 92–316, § 3(b), 86 Stat. 228.
24301(f)	45:546(d).	
24301(g)	45:546(c).	
24301(h)	45:546(*l*).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 306(*l*); added Sept. 29, 1979, Pub. L. 96–73, § 112(c), 93 Stat. 541.
24301(i)	45:797j (words '', the National Railroad Passenger Corporation,'').	Jan. 2, 1974, Pub. L. 93–236, 87 Stat. 985, § 711 (words '', the National Railroad Passenger Corporation,''); added Aug. 13, 1981, Pub. L. 97–35, § 1143(a), 95 Stat. 667.
24301(j)	45:546(e).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24301(k)	45:546(n).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §306(n); added Aug. 13, 1981, Pub. L. 97–35, §1178, 95 Stat. 692; restated Oct. 27, 1992, Pub. L. 102–533, §6, 106 Stat. 3517.
24301(*l*)	45:546b.	Sept. 10, 1982, Pub. L. 97–257, §107 (par. under heading ''Grants to the National Railroad Passenger Corporation''), 96 Stat. 852.
24301(m)	45:546(i).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §306(i); added Feb. 5, 1976, Pub. L. 94–210, §706(e), 90 Stat. 124; Oct. 19, 1976, Pub. L. 94–555, §105, 90 Stat. 2615; May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 412; Nov. 16, 1990, Pub. L. 101–610, §601(a), 104 Stat. 3185.
24301(n)	45:546(f).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §306(f); added June 22, 1972, Pub. L. 92–316, §3(b), 86 Stat. 228; Apr. 7, 1986, Pub. L. 99–272, §4004, 100 Stat. 107.

In subsection (a), before clause (1), the text of 45:541 (1st sentence) is omitted as executed. The text of 45:541 (last sentence) is omitted as surplus. In clause (1), the words ''rail carrier'' are substituted for ''common carrier by railroad'' because of 49:10102. In clause (3), the words ''department, agency, or instrumentality'' are substituted for ''agency, instrumentality, authority, or entity, or establishment'' for consistency in the revised title and with other titles of the United States Code. The word ''instrumentality'' includes entities, authorities, establishments, and any other organizational unit of the United States Government that is not a department or agency.

In subsection (b), the words ''In connection with the performance of such activities'' and ''to which the Corporation is a party'' are omitted as surplus.

In subsection (c)(1)(B), the words ''whether by trackage rights or otherwise'' are omitted as surplus.

In subsection (c)(2)(B), the words ''adversely affected'' are substituted for ''aggrieved'' for consistency in the revised title and with other titles of the Code.

In subsection (d), the word ''same'' is omitted as surplus.

In subsection (e), the text of 45:545(a) (last sentence) and (e)(8) is omitted as surplus.

In subsection (f), the words ''the place'' are omitted as surplus.

In subsection (h), the word ''applicable'' is omitted as surplus.

In subsection (j), the words ''existing'', ''including the antitrust laws of the United States'', and ''contracts . . . leases'' are omitted as surplus.

In subsection (k)(2), the words ''of funds'' are omitted as surplus.

In subsection (*l*)(1), the words ''Notwithstanding any other provision of law'', ''other'', ''including such taxes and fees levied after September 30, 1982'', and ''notwithstanding any provision of law'' are omitted as surplus. The text of 45:546b (2d sentence) is omitted as executed.

In subsection (*l*)(2), the words ''Notwithstanding the provision of section 1341 of title 28'' are omitted as surplus.

In subsection (m)(1), before clause (A), the word ''New'' is omitted as surplus.

In subsection (m)(2), the word ''vehicles'' is substituted for ''conveyances'' for clarity.

In subsection (n), the words ''uniformed services'' are substituted for ''Armed Forces or commissioned services'' for consistency in the revised title and with other titles of the Code.

REFERENCES IN TEXT

The Railroad Retirement Act of 1974, referred to in subsec. (c), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93–445, title I, §101, Oct. 16, 1974, 88 Stat. 1305, which is classified generally to subchapter IV (§231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

The Railroad Unemployment Insurance Act, referred to in subsec. (c), is act June 25, 1938, ch. 680, 52 Stat. 1094, as amended, which is classified principally to chapter 11 (§351 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 367 of Title 45 and Tables.

The Railroad Retirement Tax Act, referred to in subsec. (c), is act Aug. 16, 1954, ch. 736, §§3201, 3202, 3211, 3212, 3221, and 3231 to 3233, 68A Stat. 431, as amended, which is classified generally to chapter 22 (§3201 et seq.) of Title 26, Internal Revenue Code. For complete classification of this Act to the Code, see section 3233 of Title 26 and Tables.

The District of Columbia Business Corporation Act, referred to in subsec. (e), is act June 8, 1954, ch. 269, 68 Stat. 179, as amended, which appears in chapter 3 (§29–301 et seq.) of Title 29, Corporations, of the District of Columbia Code.

AMENDMENTS

1997—Subsec. (a)(1). Pub. L. 105–134, §401(1), substituted ''railroad carrier under section 20102(2) and chapters 261 and 281'' for ''rail carrier under section 10102''.

Subsec. (a)(3). Pub. L. 105–134, §415(d)(1), inserted '', and shall not be subject to title 31'' after ''United States Government''.

Subsec. (c). Pub. L. 105–134, §401(2), reenacted heading without change and amended text generally. Prior to amendment, text read as follows:

''(1) Part A of subtitle IV of this title applies to Amtrak, except for provisions related to the—

''(A) regulation of rates;

''(B) abandonment or extension of rail lines used only for passenger transportation and the abandonment or extension of operations over those lines;

''(C) regulation of routes and service;

''(D) discontinuance or change of rail passenger transportation operations; and

''(E) issuance of securities or the assumption of an obligation or liability related to the securities of others.

''(2) Notwithstanding this subsection—

''(A) section 10721 of this title applies to Amtrak; and

''(B) on application of an adversely affected motor carrier, the Surface Transportation Board under part A of subtitle IV of this title may hear a complaint about an unfair or predatory rate or marketing practice of Amtrak for a route or service operating at a loss.''

Subsec. (e). Pub. L. 105–134, §110(a), inserted at end ''Section 552 of title 5, United States Code, applies to Amtrak for any fiscal year in which Amtrak receives a Federal subsidy.''

Subsec. (f). Pub. L. 105–134, §106(b), amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: ''The laws of the District of Columbia govern leases and contracts of Amtrak, regardless of where they are executed.''

Subsec. (*l*)(1). Pub. L. 105–134, §208, inserted heading and substituted in text ''Amtrak, a rail carrier subsidiary of Amtrak, and any passenger or other customer of Amtrak or such subsidiary, are'' for ''Amtrak or a rail carrier subsidiary of Amtrak is'', ''tax, fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority on Amtrak, a rail carrier subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom'' for

''tax or fee imposed by a State, a political subdivision of a State, or a local taxing authority and levied on it'', and ''In the case of a tax or fee that Amtrak was required to pay as of September 10, 1982, Amtrak is not exempt from such tax or fee if it was assessed before April 1, 1997.'' for ''However, Amtrak is not exempt under this subsection from a tax or fee that it was required to pay as of September 10, 1982.''

Subsec. (m)(1)(A). Pub. L. 105–134, § 402, substituted ''2001'' for ''1996''.

1995—Subsec. (c)(1). Pub. L. 104–88, § 308(g)(1)(A), substituted ''Part A of subtitle IV'' for ''Subtitle IV''.

Subsec. (c)(2)(A). Pub. L. 104–88, § 308(g)(1)(B), substituted ''section 10721 of this title applies'' for ''sections 10721–10724 of this title apply''.

Subsec. (c)(2)(B). Pub. L. 104–88, § 308(g)(1)(C), substituted ''Transportation Board under part A of subtitle IV'' for ''Interstate Commerce Commission under any provision of subtitle IV of this title applicable to a carrier subject to subchapter I of chapter 105''.

Subsec. (d). Pub. L. 104–88, § 308(g)(2), substituted ''rail carrier subject to part A of subtitle IV'' for ''common carrier subject to subchapter I of chapter 105''.

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.

REGULATIONS

Pub. L. 101–610, title VI, § 601(d), (e), Nov. 16, 1990, 104 Stat. 3186, provided that:

''(d) Not later than 1 year after the date of enactment of this Act [Nov. 16, 1990], the Secretary of Transportation, after appropriate notice and comment, and in consultation with the National Railroad Passenger Corporation, the Administrator of the Environmental Protection Agency, the Surgeon General, and State and local officials shall promulgate such regulations as may be necessary to mitigate the impact of the discharge of human waste from railroad passenger cars on areas that may be considered environmentally sensitive.

''(e) Not later than 1 year after the date of enactment of this Act [Nov. 16, 1990], the Secretary of Transportation shall promulgate regulations directing the National Railroad Passenger Corporation to, where appropriate, publish printed information, and make public address announcements, explaining its existing disposal technology and the retrofit and new equipment program, and encouraging passengers using existing equipment not to dispose of wastes in stations, railroad yards, or while the train is moving through environmentally sensitive areas.''

PASSENGER CHOICE

Pub. L. 105–134, title I, § 109, Dec. 2, 1997, 111 Stat. 2574, provided that: ''Federal employees are authorized to travel on Amtrak for official business where total travel cost from office to office is competitive on a total trip or time basis.''

APPLICATION OF FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT

Pub. L. 105–134, title I, § 110(b), Dec. 2, 1997, 111 Stat. 2574, provided that: ''Section 303B(m) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(m)) applies to a proposal in the possession or control of Amtrak.''

EXEMPTION FROM LAWS RELATING TO ABANDONED OR UNCLAIMED PROPERTY

Pub. L. 104–205, title III, § 347, Sept. 30, 1996, 110 Stat. 2976, provided that: ''Hereinafter, the National Railroad Passenger Corporation (Amtrak) shall be exempted from any State or local law relating to the payment or delivery of abandoned or unclaimed personal property to any government authority, including any provision for the enforcement thereof, with respect to passenger rail tickets for which no refund has been or may be claimed, and such law shall not apply to funds held by Amtrak as a result of the purchase of tickets after April 30, 1972 for which no refund has been claimed.''

§ 24302. Board of Directors

(a) REFORM BOARD.—

(1) ESTABLISHMENT AND DUTIES.—The Reform Board described in paragraph (2) shall assume the responsibilities of the Board of Directors of Amtrak by March 31, 1998, or as soon thereafter as at least 4 members have been appointed and qualified. The Board appointed under prior law shall be abolished when the Reform Board assumes such responsibilities.

(2) MEMBERSHIP.—(A)(i) The Reform Board shall consist of 7 voting members appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years.

(ii) Notwithstanding clause (i), if the Secretary of Transportation is appointed to the Reform Board, such appointment shall not be subject to the advice and consent of the Senate. If appointed, the Secretary may be represented at Board meetings by his designee.

(B) In selecting the individuals described in subparagraph (A) for nominations for appointments to the Reform Board, the President should consult with the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate.

(C) Appointments under subparagraph (A) shall be made from among individuals who—

(i) have technical qualifications, professional standing, and demonstrated expertise in the fields of transportation or corporate or financial management;

(ii) are not representatives of rail labor or rail management; and

(iii) in the case of 6 of the 7 individuals selected, are not employees of Amtrak or of the United States.

(D) The President of Amtrak shall serve as an ex officio, nonvoting member of the Reform Board.

(3) CONFIRMATION PROCEDURE IN SENATE.—

(A) This paragraph is enacted by the Congress—

(i) as an exercise of the rulemaking power of the Senate, and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a motion to discharge; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(ii) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(B) If, by the first day of June on which the Senate is in session after a nomination is submitted to the Senate under this section, the committee to which the nomination was referred has not reported the nomination, then it shall be discharged from fur-

ther consideration of the nomination and the nomination shall be placed on the Executive Calendar.

(C) It shall be in order at any time thereafter to move to proceed to the consideration of the nomination without any intervening action or debate.

(D) After no more than 10 hours of debate on the nomination, which shall be evenly divided between, and controlled by, the Majority Leader and the Minority Leader, the Senate shall proceed without intervening action to vote on the nomination.

(b) BOARD OF DIRECTORS.—Five years after the establishment of the Reform Board under subsection (a), a Board of Directors shall be selected—

(1) if Amtrak has, during the then current fiscal year, received Federal assistance, in accordance with the procedures set forth in subsection (a)(2); or

(2) if Amtrak has not, during the then current fiscal year, received Federal assistance, pursuant to bylaws adopted by the Reform Board (which shall provide for employee representation), and the Reform Board shall be dissolved.

(c) AUTHORITY TO RECOMMEND PLAN.—The Reform Board shall have the authority to recommend to the Congress a plan to implement the recommendations of the 1997 Working Group on Inter-City Rail regarding the transfer of Amtrak's infrastructure assets and responsibilities to a new separately governed corporation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 906; Pub. L. 105–134, title IV, §411(a), Dec. 2, 1997, 111 Stat. 2588.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24302(a)(1) ..	45:543(a)(1) (words before (A)), (A) (1st sentence), (B)–(E) (words before comma).	Oct. 30, 1970, Pub. L. 91–518, §303(a), 84 Stat. 1330; restated Nov. 3, 1973, Pub. L. 93–146, §3(a), 87 Stat. 548; Feb. 5, 1976, Pub. L. 94–210, §706(f), 90 Stat. 124; Oct. 19, 1976, Pub. L. 94–555, §103, 90 Stat. 2615; May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 412; Aug. 13, 1981, Pub. L. 97–35, §1174(a), 95 Stat. 689; June 22, 1988, Pub. L. 100–342, §18(b), 102 Stat. 636.
24302(a)(2) ..	45:543(a)(2)(A) (1st sentence words before comma, last sentence).	
24302(a)(3) ..	45:543(a)(2)(B).	
24302(a)(4) ..	45:543(a)(1)(E) (words after comma).	
24302(a)(5) ..	45:543(a)(4).	
24302(a)(6) ..	45:543(a)(1)(A) (last sentence).	
24302(b)	45:543(a)(7).	
	45:543(c).	Oct. 30, 1970, Pub. L. 91–518, §303(b), (c), 84 Stat. 1331.
24302(c)	45:543(a)(6).	
24302(d)	45:543(a)(5).	
24302(e)	45:543(a)(2)(A) (1st sentence words after comma), (3), (8).	
24302(f)	45:543(b).	

In subsection (a)(1), before clause (A), the words ''is composed of the following 9 directors, each of whom must be a citizen'' are substituted for ''consisting of nine individuals who are citizens'' for consistency in the revised title. The words ''as follows'' are omitted as surplus. In clause (A), the words ''ex officio'' are omitted as surplus. In clause (C)(ii), the words ''chief executive officer of a State'' are substituted for ''Governor'' for consistency in the revised title and with other titles of the United States Code. In clause (D), the text of 45:543(a)(1)(D)(i) and the words ''after January 1, 1983'' are omitted as executed.

In subsection (a)(2), the words ''by the President'' and ''registered as'' are omitted as surplus.

In subsection (a)(3) and (4), the word ''selected'' is substituted for ''appointed'' for consistency.

In subsection (a)(6), the word ''only'' is added for clarity.

In subsection (b), the text of 45:543(a)(7) is omitted as obsolete because preferred stockholder representatives are always part of Amtrak's board of directors. The text of 45:543(c) (words after ''all stockholders'') is omitted as obsolete because Congress eliminated common stockholder representatives when it reconstituted the board.

In subsection (c), the words ''direct or indirect'' are omitted as surplus.

In subsection (d), the word ''performing'' is substituted for ''engaged in the actual performance of'' to eliminate unnecessary words. The word ''board'' is added for clarity. The words ''and powers'' are added for consistency in the revised title and with other titles of the Code. The word ''reasonable'' is substituted for ''which is reasonably required'' to eliminate unnecessary words.

In subsection (e), the words ''the membership of'' and ''in the case of'' are omitted as surplus. The words ''occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of the term'' are substituted for ''shall be appointed only for the unexpired term of the member he is appointed to succeed'' for clarity and consistency in the revised title and with other titles of the Code. The words ''under subsection (a)(1)(C)'' the 2d time they appear are substituted for ''paragraph (1)(B) of this subsection'' in 45:543(a)(8) to correct an erroneous cross-reference.

AMENDMENTS

1997—Pub. L. 105–134 amended section catchline and text generally. Prior to amendment, text related, in subsec. (a), to composition and terms of Amtrak board of directors, in subsec. (b), to cumulative voting by stockholders, in subsec. (c), to conflicts of interest of directors, in subsec. (d), to pay and expenses of directors, in subsec. (e), to vacancies on board, and in subsec. (f), to bylaws of board.

§ 24303. Officers

(a) APPOINTMENT AND TERMS.—Amtrak has a President and other officers that are named and appointed by the board of directors of Amtrak. An officer of Amtrak must be a citizen of the United States. Officers of Amtrak serve at the pleasure of the board.

(b) PAY.—The board may fix the pay of the officers of Amtrak. An officer may not be paid more than the general level of pay for officers of rail carriers with comparable responsibility. The preceding sentence shall not apply for any fiscal year for which no Federal assistance is provided to Amtrak.

(c) CONFLICTS OF INTEREST.—When employed by Amtrak, an officer may not have a financial or employment relationship with another rail carrier, except that holding securities issued by a rail carrier is not deemed to be a violation of this subsection if the officer holding the securities makes a complete public disclosure of the holdings and does not participate in any decision directly affecting the rail carrier.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 907; Pub. L. 105–134, title II, § 207, Dec. 2, 1997, 111 Stat. 2584.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24303(a)	45:543(d) (1st, 4th, 5th sentences).	Oct. 30, 1970, Pub. L. 91–518, § 303(d), 84 Stat. 1331; June 22, 1972, Pub. L. 92–316, § 1(a), 86 Stat. 227; May 26, 1975, Pub. L. 94–25, § 2, 89 Stat. 90; July 18, 1982, Pub. L. 97–216, § 101 (par. under heading ''Grants to the National Railroad Passenger Corporation''), 96 Stat. 187; June 22, 1988, Pub. L. 100–342, § 18(c), 102 Stat. 636.
24303(b)	45:543(d) (2d, 3d sentences).	
24303(c)	45:543(d) (last sentence).	

In subsection (a), the words ''of directors of Amtrak'' are added for clarity.

In subsection (b), the words ''rates of'', ''president and other'', and ''at a level'' are omitted as surplus.

In subsection (c), the words ''direct or indirect'' are omitted as surplus. The word ''another'' is substituted for ''any'' for clarity.

AMENDMENTS

1997—Subsec. (b). Pub. L. 105–134 inserted at end ''The preceding sentence shall not apply for any fiscal year for which no Federal assistance is provided to Amtrak.''

§ 24304. Employee stock ownership plans

In issuing stock pursuant to applicable corporate law, Amtrak is encouraged to include employee stock ownership plans.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 908; Pub. L. 105–134, title IV, § 415(a)(1), Dec. 2, 1997, 111 Stat. 2590.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24304(a)	45:544(a) (1st sentence, last sentence words before (A), (A) (1st sentence), (B)(i) (1st sentence)).	Oct. 30, 1970, Pub. L. 91–518, § 304(a), 84 Stat. 1331; Aug. 13, 1981, Pub. L. 97–35, § 1175(1), (2), 95 Stat. 691.
24304(b)	45:544(a) (2d sentence).	
	45:544(b).	Oct. 30, 1970, Pub. L. 91–518, § 304(b), 84 Stat. 1332; Oct. 28, 1974, Pub. L. 93–496, § 2, 88 Stat. 1526.
24304(c)	45:544(a) (last sentence words before (A), (A) (last sentence), (B)(i) (last sentence), (ii), (iii)).	
24304(d)(1) ..	45:544(c)(1), (2).	Oct. 30, 1970, Pub. L. 91–518, § 304(c)(1), (2), 84 Stat. 1332; restated Aug. 13, 1981, Pub. L. 97–35, § 1175(3), 95 Stat. 691.
24304(d)(2) ..	45:544(c)(3).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 304(c)(3); added Apr. 7, 1986, Pub. L. 99–272, § 4003, 100 Stat. 107.
24304(d)(3) ..	45:544(c)(4).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 304(c)(4); added Oct. 27, 1992, Pub. L. 102–533, § 5, 106 Stat. 3517.
24304(e)	45:544(e)(2).	Oct. 30, 1970, Pub. L. 91–518, § 304(d), (e), 84 Stat. 1332; restated Aug. 13, 1981, Pub. L. 97–35, § 1175(4), 95 Stat. 691.
24304(f)	45:544(d).	
24304(g)	45:544(e)(1).	

In subsection (a), before clause (1), the words ''issue and'' are omitted because they are included in ''have outstanding''. The words ''in such amounts as it shall determine'' are omitted as surplus. The words ''one issue of common stock and one issue of preferred stock'' are substituted for ''two issues of capital stock, a common and a preferred'' for clarity. In clause (1), the word ''designated'' is omitted as surplus.

In subsection (b)(1)(A), the words ''may not hold'' are substituted for ''may be issued and held only by any person other than'' to eliminate unnecessary words.

In subsections (b)(1)(B) and (c), the words ''as defined in section 10102(6) of title 49'' are omitted because of the definition of ''rail carrier'' in section 24102 of the revised title.

In subsection (b)(1)(B), the words ''after the initial issue is completed'' are omitted as executed. The words ''single'' and ''directly or indirectly through subsidiaries or affiliated companies, nominees, or any person subject to its direction or control'' are omitted as surplus. The words ''may vote not more than one-third of the total number of shares of outstanding common stock of Amtrak'' are substituted for ''At no time . . . shall the aggregate of the shares of common stock of the Corporation voted by . . . exceed 33⅓ per centum of such shares issued and outstanding'' to eliminate unnecessary words.

In subsection (b)(2), the words ''Additional common stock'' are substituted for ''a number of shares in excess of 33⅓ per centum of the total number of common shares issued and outstanding, such excess number'' to eliminate unnecessary words. The words ''issued and'' are omitted because they are included in ''outstanding''.

Subsection (c)(1) is substituted for ''Dividends shall be fixed at a rate not less than 6 per centum per annum, and shall be cumulative'' to eliminate unnecessary words.

In subsection (c)(2), the text of 45:544(a) (last sentence) (A) (last sentence) and the words ''for any dividend period'' and ''at the rate fixed in the articles of incorporation'' are omitted as surplus.

In subsection (c)(3), the words ''holders of preferred stock'' are substituted for ''preferred stockholders'', and the words ''holders of common stock'' are substituted for ''common stockholders'', for consistency in this chapter.

In subsection (c)(4), the words ''at such time and upon such terms as the articles of incorporation shall provide'' are omitted as surplus.

In subsection (d)(1), the text of 45:544(c)(1) and the words ''Commencing on October 1, 1981'' are omitted as executed. The words ''and in consideration of receiving further Federal financial assistance'', ''of the United States Government'', ''additional'', and ''of funds'' are omitted as surplus.

In subsection (d)(3), the words ''required to be issued'' are omitted as surplus.

Subsection (e) is substituted for 45:544(e)(2) to eliminate unnecessary words.

In subsection (f), the words ''in addition to the stock authorized by subsection (a) of this section'', ''securities, bonds, debentures, notes, and other'', and ''as it may determine'' are omitted as surplus.

Subsection (g) is substituted for 45:544(e)(1) to eliminate unnecessary words.

AMENDMENTS

1997—Pub. L. 105–134 amended section catchline and text generally, substituting provisions relating to employee stock ownership plans for provisions relating to capitalization of Amtrak.

AMTRAK STOCK

Pub. L. 105–134, title IV, § 415(b), (c), Dec. 2, 1997, 111 Stat. 2590, provided that:

''(b) REDEMPTION OF COMMON STOCK.—Amtrak shall, before October 1, 2002, redeem all common stock previously issued, for the fair market value of such stock.

''(c) ELIMINATION OF LIQUIDATION PREFERENCE AND VOTING RIGHTS OF PREFERRED STOCK.—(1)(A) Preferred stock of Amtrak held by the Secretary of Transportation shall confer no liquidation preference.

''(B) Subparagraph (A) shall take effect 90 days after the date of the enactment of this Act [Dec. 2, 1997].

''(2)(A) Preferred stock of Amtrak held by the Secretary of Transportation shall confer no voting rights.

''(B) Subparagraph (A) shall take effect 60 days after the date of the enactment of this Act.''

§ 24305. General authority

(a) ACQUISITION AND OPERATION OF EQUIPMENT AND FACILITIES.—(1) Amtrak may acquire, operate, maintain, and make contracts for the operation and maintenance of equipment and facilities necessary for intercity and commuter rail passenger transportation, the transportation of mail and express, and auto-ferry transportation.

(2) Amtrak shall operate and control directly, to the extent practicable, all aspects of the rail passenger transportation it provides.

(3)(A) Except as provided in subsection (d)(2), Amtrak may enter into a contract with a motor carrier of passengers for the intercity transportation of passengers by motor carrier over regular routes only—

(i) if the motor carrier is not a public recipient of governmental assistance, as such term is defined in section 13902(b)(8)(A) of this title, other than a recipient of funds under section 5311 of this title;

(ii) for passengers who have had prior movement by rail or will have subsequent movement by rail; and

(iii) if the buses, when used in the provision of such transportation, are used exclusively for the transportation of passengers described in clause (ii).

(B) Subparagraph (A) shall not apply to transportation funded predominantly by a State or local government, or to ticket selling agreements.

(b) MAINTENANCE AND REHABILITATION.—Amtrak may maintain and rehabilitate rail passenger equipment and shall maintain a regional maintenance plan that includes—

(1) a review panel at the principal office of Amtrak consisting of members the President of Amtrak designates;

(2) a systemwide inventory of spare equipment parts in each operational region;

(3) enough maintenance employees for cars and locomotives in each region;

(4) a systematic preventive maintenance program;

(5) periodic evaluations of maintenance costs, time lags, and parts shortages and corrective actions; and

(6) other elements or activities Amtrak considers appropriate.

(c) MISCELLANEOUS AUTHORITY.—Amtrak may—

(1) make and carry out appropriate agreements;

(2) transport mail and express and shall use all feasible methods to obtain the bulk mail business of the United States Postal Service;

(3) improve its reservation system and advertising;

(4) provide food and beverage services on its trains only if revenues from the services each year at least equal the cost of providing the services;

(5) conduct research, development, and demonstration programs related to the mission of Amtrak; and

(6) buy or lease rail rolling stock and develop and demonstrate improved rolling stock.

(d) THROUGH ROUTES AND JOINT FARES.—(1) Establishing through routes and joint fares between Amtrak and other intercity rail passenger carriers and motor carriers of passengers is consistent with the public interest and the transportation policy of the United States. Congress encourages establishing those routes and fares.

(2) Amtrak may establish through routes and joint fares with any domestic or international motor carrier, air carrier, or water carrier.

(3) Congress encourages Amtrak and motor common carriers of passengers to use the authority conferred in sections 11322 and 14302 of this title for the purpose of providing improved service to the public and economy of operation.

(e) RAIL POLICE.—Amtrak may employ rail police to provide security for rail passengers and property of Amtrak. Rail police employed by Amtrak who have complied with a State law establishing requirements applicable to rail police or individuals employed in a similar position may be employed without regard to the law of another State containing those requirements.

(f) DOMESTIC BUYING PREFERENCES.—(1) In this subsection, ''United States'' means the States, territories, and possessions of the United States and the District of Columbia.

(2) Amtrak shall buy only—

(A) unmanufactured articles, material, and supplies mined or produced in the United States; or

(B) manufactured articles, material, and supplies manufactured in the United States substantially from articles, material, and supplies mined, produced, or manufactured in the United States.

(3) Paragraph (2) of this subsection applies only when the cost of those articles, material, or supplies bought is at least $1,000,000.

(4) On application of Amtrak, the Secretary of Transportation may exempt Amtrak from this subsection if the Secretary decides that—

(A) for particular articles, material, or supplies—

(i) the requirements of paragraph (2) of this subsection are inconsistent with the public interest;

(ii) the cost of imposing those requirements is unreasonable; or

(iii) the articles, material, or supplies, or the articles, material, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality; or

(B) rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 909; Pub. L. 105–134, title I, § 107, Dec. 2, 1997, 111 Stat. 2573.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24305(a)(1) ..	45:545(a) (1st sentence 1st–32d words, words after last semicolon).	Oct. 30, 1970, Pub. L. 91–518, § 305(a) (1st, 2d sentences), 84 Stat. 1332; June 22, 1972, Pub. L. 92–316, § 2(1), (2), 86 Stat. 228; Nov. 3, 1973, Pub. L. 93–146, § 4, 87 Stat. 549; Aug. 13, 1981, Pub. L. 97–35, § 1188(b), 95 Stat. 699.
	45:545(b) (4th sentence).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 305(b) (4th sentence); added June 22, 1972, Pub. L. 92–316, § 2(3), 86 Stat. 228; Nov. 3, 1973, Pub. L. 93–146, § 5, 87 Stat. 550.
	45:545(e)(5).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 305(e)(1)–(6); added Nov. 3, 1973, Pub. L. 93–146, § 6, 87 Stat. 551.
24305(a)(2) ..	45:545(a) (2d sentence).	
24305(b)	45:545(e)(2).	
	45:545(g).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 305(g); added Oct. 28, 1974, Pub. L. 93–496, § 3, 88 Stat. 1527; restated Sept. 29, 1979, Pub. L. 96–73, §§ 106, 107, 93 Stat. 539, 540.
24305(c)(1) ..	45:851(a)(2).	Feb. 5, 1976, Pub. L. 94–210, § 701(a)(2), 90 Stat. 119.
24305(c)(2) ..	45:545(a) (1st sentence 33d word–1st semicolon).	
	45:545a.	Oct. 5, 1978, Pub. L. 95–421, § 19, 92 Stat. 930.
24305(c)(3) ..	45:545(e)(1).	
24305(c)(4) ..	45:545(n).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 305(n); added Aug. 13, 1981, Pub. L. 97–35, § 1177(a), 95 Stat. 692.
24305(c)(5) ..	45:545(a) (1st sentence words between 1st and last semicolons), (e)(3).	
24305(c)(6) ..	45:545(e)(4), (6).	
24305(d)	45:546(j).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 306(j); added Oct. 19, 1976, Pub. L. 94–555, § 106, 90 Stat. 2615; Sept. 29, 1979, Pub. L. 96–73, § 112(b), 93 Stat. 541.
24305(e)	45:545(j).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 305(j); added Oct. 19, 1976, Pub. L. 94–555, § 104, 90 Stat. 2615; Sept. 29, 1979, Pub. L 96–73, §§ 106, 108, 93 Stat. 539, 540.
24305(f)	45:545(k).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 305(k); added Oct. 5, 1978, Pub. L. 95–421, § 10, 92 Stat. 928; Sept. 29, 1979, Pub. L. 96–73, §§ 106, 109, 93 Stat. 539, 540.

In subsection (a)(1), the text of 45:545(e)(5) is omitted as obsolete. The words ''acquire, operate, maintain, and make contracts for the operation and maintenance of'' are substituted for ''own, manage, operate, or contract for the operation of'', ''acquire by construction, purchase, or gift, or to contract for the use of'', ''acquire, lease, modify, or develop'', and ''or to enter into contracts for the provision of such service'' to eliminate unnecessary words. The word ''physical'' is omitted as surplus. The words ''intercity and commuter trains'' are omitted as being included in ''equipment''. The words ''the transportation of mail and express'' are substituted for ''mail, express . . . service'' for consistency in this chapter.

In subsection (b), before clause (1), the words ''service'' and ''repair'' are omitted as surplus. The words ''not later than January 1, 1980'' are omitted as executed. In clause (1), the words ''principal office of Amtrak'' are substituted for ''corporate headquarters'' for clarity and consistency. In clauses (3) and (4), the words ''establishment of'' are omitted as executed.

In subsection (c)(1), the words ''contracts and'' and ''necessary or . . . in the conduct of its functions'' are omitted as surplus.

In subsection (c)(2), the words ''on such trains'' in 45:545(a), and the words ''including taking into account the needs of the United States Postal Service in establishing schedules'' and ''and service'' in 45:545a, are omitted as surplus.

In subsection (c)(4), the text of 45:545(n) (1st sentence) and the words ''Beginning October 1, 1982'' are omitted as executed.

In subsection (d)(1), the words ''rail passenger carriers'' are substituted for ''common carriers of passengers by rail'' for consistency in the revised title. The words ''establishing those routes and fares'' are substituted for ''the making of such arrangements'' for clarity.

In subsection (e), the words ''and protection'' and ''licensing, residency, or related'' are omitted as surplus.

In subsection (f)(1), the words ''several'' and ''the Commonwealth of Puerto Rico'' are omitted as surplus.

In subsection (f)(2), the words ''Except as provided in paragraph (2) or (3) of this subsection'', ''which have been'', ''all'', and ''as the case may be'' are omitted as surplus.

In subsection (f)(3), the text of 45:545(k)(4)(B) is omitted as executed.

In subsection (f)(4)(A) and (B), the words ''the purchase of'' are omitted as surplus.

In subsection (f)(4)(A)(i), the words ''imposing'' and ''with respect to such articles, materials, and supplies'' are omitted as surplus.

AMENDMENTS

1997—Subsec. (a)(3). Pub. L. 105–134, § 107(a), added par. (3).

Subsec. (d)(3). Pub. L. 105–134, § 107(b), added par. (3).

RAIL AND MOTOR CARRIER PASSENGER SERVICE

Pub. L. 105–134, title I, § 108, Dec. 2, 1997, 111 Stat. 2574, provided that:

''(a) IN GENERAL.—Notwithstanding any other provision of law (other than section 24305(a)(3) of title 49, United States Code), Amtrak and motor carriers of passengers are authorized—

''(1) to combine or package their respective services and facilities to the public as a means of increasing revenues; and

''(2) to coordinate schedules, routes, rates, reservations, and ticketing to provide for enhanced intermodal surface transportation.

''(b) REVIEW.—The authority granted by subsection (a) is subject to review by the Surface Transportation Board and may be modified or revoked by the Board if modification or revocation is in the public interest.''

EDUCATIONAL PARTICIPATION

Pub. L. 105–134, title IV, § 412, Dec. 2, 1997, 111 Stat. 2589, provided that: ''Amtrak shall participate in educational efforts with elementary and secondary schools to inform students on the advantages of rail travel and the need for rail safety.''

§ 24306. Mail, express, and auto-ferry transportation

(a) ACTIONS TO INCREASE REVENUES.—Amtrak shall take necessary action to increase its revenues from the transportation of mail and express. To increase its revenues, Amtrak may provide auto-ferry transportation as part of the basic passenger transportation authorized by this part.

(b) AUTHORITY OF OTHERS TO PROVIDE AUTO-FERRY TRANSPORTATION.—State and local laws and regulations that impair the provision of auto-ferry transportation do not apply to Amtrak or a rail carrier providing auto-ferry transportation. A rail carrier may not refuse to participate with Amtrak in providing auto-ferry transportation because a State or local law or regulation makes the transportation unlawful.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 910; Pub. L. 105–134, title I, §102, Dec. 2, 1997, 111 Stat. 2572.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24306(a)	45:545(b) (1st, 2d sentence words before 2d comma, last sentence).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(b) (1st–3d, last sentences); added June 22, 1972, Pub. L. 92–316, §2(3), 86 Stat. 228; Nov. 3, 1973, Pub. L. 93–146, §5, 87 Stat. 549.
24306(b)(1) ..	45:545(b) (2d sentence words after 2d comma).	
24306(b)(2) ..	45:545(b) (3d sentence).	
24306(b)(3) ..	45:546(h).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §306(h); added Nov. 3, 1973, Pub. L. 93–146, §7, 87 Stat. 551.

In subsection (a), the words ''and to better accomplish the purposes of this chapter'' and ''modify its services to'' are omitted as surplus. The words ''a department, agency, or instrumentality of the United States Government'' are substituted for ''Federal departments and agencies'' for consistency in the revised title and with other titles of the United States Code. The words ''consistent with the provisions of existing law'' are omitted as surplus.

In subsection (b)(1), before clause (A), the words ''A person primarily providing auto-ferry transportation and any other person not a rail carrier may provide'' are substituted for ''except that nothing contained in this chapter shall prevent any other person, other than a railroad (except that for purposes of this section a person primarily engaged in auto-ferry service shall not be deemed to be a railroad), from providing such'' to eliminate unnecessary words. The text of 45:545(b) (2d sentence words after ''the public'') is omitted as obsolete.

In subsection (b)(2), the words ''may provide'' are substituted for ''Nothing in this section shall be construed to restrict the right of . . . from performing'' to eliminate unnecessary words and for clarity. The words ''rail lines'' are substituted for ''lines'' for clarity and consistency in the revised title and with other titles of the Code.

In subsection (b)(3), the words ''has the effect of prohibiting or'', ''fine, penalty, or other'', and ''for violation of'' are omitted as surplus. The words ''rail carrier'' are substituted for ''common carrier by railroad'' for consistency in the revised title and with other titles of the Code.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–134, §102(1), struck out at end ''When requested by Amtrak, a department, agency, or instrumentality of the United States Government shall assist in carrying out this section.''

Subsec. (b). Pub. L. 105–134, §102(2), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows:

''(1) A person primarily providing auto-ferry transportation and any other person not a rail carrier may provide auto-ferry transportation over any route under a certificate issued by the Interstate Commerce Commission if the Commission finds that the auto-ferry transportation—

''(A) will not impair the ability of Amtrak to reduce its losses or increase its revenues; and

''(B) is required to meet the public demand.

''(2) A rail carrier that has not made a contract with Amtrak to provide rail passenger transportation may provide auto-ferry transportation over its own rail lines.

''(3) State and local laws and regulations that impair the provision of auto-ferry transportation do not apply to Amtrak or a rail carrier providing auto-ferry transportation. A rail carrier may not refuse to participate with Amtrak in providing auto-ferry transportation because a State or local law or regulation makes the transportation unlawful.''

§ 24307. Special transportation

(a) REDUCED FARE PROGRAM.—Amtrak shall maintain a reduced fare program for the following:

(1) individuals at least 65 years of age.

(2) individuals (except alcoholics and drug abusers) who—

(A) have a physical or mental impairment that substantially limits a major life activity of the individual;

(B) have a record of an impairment; or

(C) are regarded as having an impairment.

(b) EMPLOYEE TRANSPORTATION.—(1) In this subsection, ''rail carrier employee'' means—

(A) an active full-time employee of a rail carrier or terminal company and includes an employee on furlough or leave of absence;

(B) a retired employee of a rail carrier or terminal company; and

(C) a dependent of an employee referred to in clause (A) or (B) of this paragraph.

(2) Amtrak shall ensure that a rail carrier employee eligible for free or reduced-rate rail transportation on April 30, 1971, under an agreement in effect on that date is eligible, to the greatest extent practicable, for free or reduced-rate intercity rail passenger transportation provided by Amtrak under this part, if space is available, on terms similar to those available on that date under the agreement. However, Amtrak may apply to all rail carrier employees eligible to receive free or reduced-rate transportation under any agreement a single systemwide schedule of terms that Amtrak decides applied to a majority of employees on that date under all those agreements. Unless Amtrak and a rail carrier make a different agreement, the carrier shall reimburse Amtrak at the rate of 25 percent of the systemwide average monthly yield of each revenue passenger-mile. The reimbursement is in place of costs Amtrak incurs related to free or reduced-rate transportation, including liability related to travel of a rail carrier employee eligible for free or reduced-rate transportation.

(3) This subsection does not prohibit the Interstate Commerce Commission from ordering retroactive relief in a proceeding begun or reopened after October 1, 1981.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 911; Pub. L. 105–134, title IV, §406(b), Dec. 2, 1997, 111 Stat. 2586.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24307(a)	45:545(c)(2).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(c)(2); added Sept. 29, 1979, Pub. L. 96–73, §105(2), 93 Stat. 539.
24307(b)	45:545(c)(1).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(c)(1); added Nov. 3, 1973, Pub. L. 93–146, §6, 87 Stat. 550; Sept. 29, 1979, Pub. L. 96–73, §105(1), 93 Stat. 539.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24307(c)	45:565(f).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 405(f); added June 22, 1972, Pub. L. 92–316, § 8, 86 Stat. 230; Sept. 29, 1979, Pub. L. 96–73, § 120(a), 93 Stat. 547; Aug. 13, 1981, Pub. L. 97–35, § 1184, 95 Stat. 697.

In subsection (a), before clause (1), the word ''maintain'' is substituted for ''Within 90 days after September 29, 1979'' and ''establish'' for clarity.

In subsection (b), before clause (1), the word ''act'' is substituted for ''take all steps necessary to'' to eliminate unnecessary words. The words ''access to'' are added for clarity. In clause (1), the words ''and devices'' are omitted as surplus. In clause (4), the words ''architectural and other'' are omitted as surplus.

In subsection (c)(1)(A), the words ''period of'' and ''while on'' are omitted as surplus.

In subsection (c)(2), the words ''take such action as may be necessary to'', ''the terms of . . . policy or'', and ''to such railroad employee'' are omitted as surplus. The words ''or group of railroads'' are omitted because of 1:1.

AMENDMENTS

1997—Subsecs. (b), (c). Pub. L. 105–134 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows:

''(b) ACTIONS TO ENSURE ACCESS.—Amtrak may act to ensure access to intercity transportation for elderly or handicapped individuals on passenger trains operated by or for Amtrak. That action may include—

''(1) acquiring special equipment;

''(2) conducting special training for employees;

''(3) designing and acquiring new equipment and facilities;

''(4) eliminating barriers in existing equipment and facilities to comply with the highest standards of design, construction, and alteration of property to accommodate elderly and handicapped individuals; and

''(5) providing special assistance to elderly and handicapped individuals when getting on and off trains and in terminal areas.''

AMERICANS WITH DISABILITIES ACT OF 1990

Pub. L. 105–134, title IV, § 406(a), Dec. 2, 1997, 111 Stat. 2586, provided that:

''(1) ACCESS IMPROVEMENTS AT CERTAIN SHARED STATIONS.—Amtrak is responsible for its share, if any, of the costs of accessibility improvements required by the Americans With Disabilities Act of 1990 [42 U.S.C. 12101 et seq.] at any station jointly used by Amtrak and a commuter authority.

''(2) CERTAIN REQUIREMENTS NOT TO APPLY UNTIL 1998.—Amtrak shall not be subject to any requirement under subsection (a)(1), (a)(3), or (e)(2) of section 242 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162) until January 1, 1998.''

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.

§ 24308. Use of facilities and providing services to Amtrak

(a) GENERAL AUTHORITY.—(1) Amtrak may make an agreement with a rail carrier or regional transportation authority to use facilities of, and have services provided by, the carrier or authority under terms on which the parties agree. The terms shall include a penalty for untimely performance.

(2)(A) If the parties cannot agree and if the Interstate Commerce Commission finds it necessary to carry out this part, the Commission shall—

(i) order that the facilities be made available and the services provided to Amtrak; and

(ii) prescribe reasonable terms and compensation for using the facilities and providing the services.

(B) When prescribing reasonable compensation under subparagraph (A) of this paragraph, the Commission shall consider quality of service as a major factor when determining whether, and the extent to which, the amount of compensation shall be greater than the incremental costs of using the facilities and providing the services.

(C) The Commission shall decide the dispute not later than 90 days after Amtrak submits the dispute to the Commission.

(3) Amtrak's right to use the facilities or have the services provided is conditioned on payment of the compensation. If the compensation is not paid promptly, the rail carrier or authority entitled to it may bring an action against Amtrak to recover the amount owed.

(4) Amtrak shall seek immediate and appropriate legal remedies to enforce its contract rights when track maintenance on a route over which Amtrak operates falls below the contractual standard.

(b) OPERATING DURING EMERGENCIES.—To facilitate operation by Amtrak during an emergency, the Commission, on application by Amtrak, shall require a rail carrier to provide facilities immediately during the emergency. The Commission then shall promptly prescribe reasonable terms, including indemnification of the carrier by Amtrak against personal injury risk to which the carrier may be exposed. The rail carrier shall provide the facilities for the duration of the emergency.

(c) PREFERENCE OVER FREIGHT TRANSPORTATION.—Except in an emergency, intercity and commuter rail passenger transportation provided by or for Amtrak has preference over freight transportation in using a rail line, junction, or crossing unless the Secretary of Transportation orders otherwise under this subsection. A rail carrier affected by this subsection may apply to the Secretary for relief. If the Secretary, after an opportunity for a hearing under section 553 of title 5, decides that preference for intercity and commuter rail passenger transportation materially will lessen the quality of freight transportation provided to shippers, the Secretary shall establish the rights of the carrier and Amtrak on reasonable terms.

(d) ACCELERATED SPEEDS.—If a rail carrier refuses to allow accelerated speeds on trains operated by or for Amtrak, Amtrak may apply to the Secretary for an order requiring the carrier

to allow the accelerated speeds. The Secretary shall decide whether accelerated speeds are unsafe or impracticable and which improvements would be required to make accelerated speeds safe and practicable. After an opportunity for a hearing, the Secretary shall establish the maximum allowable speeds of Amtrak trains on terms the Secretary decides are reasonable.

(e) ADDITIONAL TRAINS.—(1) When a rail carrier does not agree to provide, or allow Amtrak to provide, for the operation of additional trains over a rail line of the carrier, Amtrak may apply to the Secretary for an order requiring the carrier to provide or allow for the operation of the requested trains. After a hearing on the record, the Secretary may order the carrier, within 60 days, to provide or allow for the operation of the requested trains on a schedule based on legally permissible operating times. However, if the Secretary decides not to hold a hearing, the Secretary, not later than 30 days after receiving the application, shall publish in the Federal Register the reasons for the decision not to hold the hearing.

(2) The Secretary shall consider—

(A) when conducting a hearing, whether an order would impair unreasonably freight transportation of the rail carrier, with the carrier having the burden of demonstrating that the additional trains will impair the freight transportation; and

(B) when establishing scheduled running times, the statutory goal of Amtrak to implement schedules that attain a system-wide average speed of at least 60 miles an hour that can be adhered to with a high degree of reliability and passenger comfort.

(3) Unless the parties have an agreement that establishes the compensation Amtrak will pay the carrier for additional trains provided under an order under this subsection, the Commission shall decide the dispute under subsection (a) of this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 911.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24308(a)(1)–(3).	45:562(a)(1).	Oct. 30, 1970, Pub. L. 91–518, §402(a)(1), 84 Stat. 1335; June 22, 1972, Pub. L. 92–316, §5(1), 86 Stat. 229; Nov. 3, 1973, Pub. L. 93–146, §10(1), 87 Stat. 552; Oct. 5, 1978, Pub. L. 95–421, §15, 92 Stat. 929; Aug. 13, 1981, Pub. L. 97–35, §1181, 95 Stat. 693; Apr. 7, 1986, Pub. L. 99–272, §4017(b)(1), 100 Stat. 110.
24308(a)(4) ..	45:562 (note).	July 11, 1987, Pub. L. 100–71 (last proviso under heading ''Grants to the National Railroad Passenger Corporation''), 101 Stat. 447.
24308(b)	45:562(c).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §402(c); added June 22, 1972, Pub. L. 92–316, §5(2), 86 Stat. 229.
24308(c)	45:562(e).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §402(e); added Nov. 3, 1973, Pub. L. 93–146, §10(2), 87 Stat. 552; Aug. 13, 1981, Pub. L. 97–35, §1188(c), 95 Stat. 699.
24308(d)	45:562(f).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §402(f); added Nov. 3, 1973, Pub. L. 93–146, §10(2), 87 Stat. 552.
24308(e)	45:562(g).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §402(g); added May 30, 1980, Pub. L. 96–254, §216, 94 Stat. 418; Apr. 7, 1986, Pub. L. 99–272, §4006(2), 100 Stat. 107.

In subsection (a)(1), the word ''authority'' is substituted for ''agencies'' for consistency in the revised title and with other titles of the United States Code. The words ''tracks and other'' are omitted as surplus. The words ''of . . . by, the carrier or authority'' are added for clarity. The words ''and conditions'' are omitted as surplus.

In subsection (a)(2)(A), before clause (i), the words ''the purposes of'' are omitted as surplus. In clause (ii), the words ''just and'' are omitted as surplus.

Subsection (a)(2)(B) is substituted for 45:562(a)(1) (3d sentence) to eliminate unnecessary words.

In subsection (a)(2)(C), the words ''shall decide the dispute'' are added, and the words ''submits the dispute'' are substituted for ''application'', for clarity.

In subsection (a)(3), the words ''Amtrak's right to use the facilities or have the services provided is conditioned on payment of the compensation'' are substituted for ''and the rights of the Corporation to such services or to the use of tracks or facilities of the railroad or agency under such order . . . shall be conditioned upon payment by the Corporation of the compensation fixed by the Commission'' to eliminate unnecessary words. The words ''or under an order issued under subsection (b) of this section'' are omitted as obsolete because 45:562(b) is executed. The words ''amount of'', ''fixed'', ''duly and'', and ''properly'' are omitted as surplus.

In subsection (a)(4), the words ''notwithstanding any other provision of law'', ''hereafter'', and ''becomes inadequate or otherwise'' are omitted as surplus.

In subsections (b)–(d), the words ''just and'' are omitted as surplus.

In subsection (b), the words ''as may be deemed by it to be necessary'', ''tracks and other'', and ''proceed to'' are omitted as surplus. The words ''personal injury'' are substituted for ''casualty'' for consistency.

In subsections (c) and (d), the words ''an opportunity for a'' are added for clarity and consistency.

In subsection (c), the word ''given'' is omitted as surplus. The words ''rail line'' are substituted for ''line of track'' for consistency in the revised title and with other titles of the Code. The word ''appropriate'' is omitted as surplus. The words ''the carrier'' are substituted for ''trains'' for clarity and consistency. The words ''and Amtrak'' are added for clarity.

In subsection (d), the words ''upon request of the Corporation'' and ''otherwise'' are omitted as surplus. The words ''which improvements would be required'' are substituted for ''and with respect to the nature and extent of improvements to track, signal systems, and other facilities that would be required'' to eliminate unnecessary words.

In subsection (e)(1), the words ''satisfactory, voluntary'' are omitted as surplus. The words ''provide, or allow Amtrak to provide'' are added, and the words ''Amtrak may apply to the Secretary for an order requiring the carrier to provide or allow for the operation of the requested trains'' are substituted for ''Upon receipt of an application from the Corporation'', for clarity.

In subsection (e)(2)(A), the words ''involved'' and ''seeking to oppose the operation of an additional train'' are omitted as surplus. The words ''when conducting a hearing'' are added for clarity.

In subsection (e)(2)(B), the word ''proper'' is omitted as surplus. The words ''60 miles'' are substituted for ''55 miles'' for consistency with 45:501a(8), restated in section 24101(c)(6) of the revised title. Section 1172(3) of the Omnibus Budget Reconciliation Act of 1981 (Public Law

91–35, 95 Stat. 688) raised the speed from 55 to 60 in 45:501a but did not make a corresponding change in 45:562(g).

In subsection (e)(3), the words ''Unless the parties have an agreement that establishes the compensation Amtrak will pay the carrier for additional trains provided under an order under this subsection'' are substituted for 45:562(g) (last sentence words before last comma) to eliminate unnecessary words. The words ''the dispute'' are added for clarity and consistency in this section.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24312, 24905 of this title.

§ 24309. Retaining and maintaining facilities

(a) DEFINITIONS.—In this section—

(1) ''facility'' means a rail line, right of way, fixed equipment, facility, or real property related to a rail line, right of way, fixed equipment, or facility, including a signal system, passenger station and repair tracks, a station building, a platform, and a related facility, including a water, fuel, steam, electric, and air line.

(2) downgrading a facility means reducing a track classification as specified in the Federal Railroad Administration track safety standards or altering a facility so that the time required for rail passenger transportation to be provided over the route on which a facility is located may be increased.

(b) APPROVAL REQUIRED FOR DOWNGRADING OR DISPOSAL.—A facility of a rail carrier or regional transportation authority that Amtrak used to provide rail passenger transportation on February 1, 1979, or on January 1, 1997, may be downgraded or disposed of only after approval by the Secretary of Transportation under this section.

(c) NOTIFICATION AND ANALYSIS.—(1) A rail carrier intending to downgrade or dispose of a facility Amtrak currently is not using to provide transportation shall notify Amtrak of its intention. If, not later than 60 days after Amtrak receives the notice, Amtrak and the carrier do not agree to retain or maintain the facility or to convey an interest in the facility to Amtrak, the carrier may apply to the Secretary for approval to downgrade or dispose of the facility.

(2) After a rail carrier notifies Amtrak of its intention to downgrade or dispose of a facility, Amtrak shall survey population centers with rail passenger transportation facilities to assist in preparing a valid and timely analysis of the need for the facility and shall update the survey as appropriate. Amtrak also shall maintain a system for collecting information gathered in the survey. The system shall collect the information based on geographic regions and on whether the facility would be part of a short haul or long haul route. The survey should facilitate an analysis of—

(A) ridership potential by ascertaining existing and changing travel patterns that would provide maximum efficient rail passenger transportation;

(B) the quality of transportation of competitors or likely competitors;

(C) the likelihood of Amtrak offering transportation at a competitive fare;

(D) opportunities to target advertising and fares to potential classes of riders;

(E) economic characteristics of rail passenger transportation related to the facility and the extent to which the characteristics are consistent with sound economic principles of short haul or long haul rail transportation; and

(F) the feasibility of applying effective internal cost controls to the facility and route served by the facility to improve the ratio of passenger revenue to transportation expenses (excluding maintenance of tracks, structures, and equipment and depreciation).

(d) APPROVAL OF APPLICATION AND PAYMENT OF AVOIDABLE COSTS.—(1) If Amtrak does not object to an application not later than 30 days after it is submitted, the Secretary shall approve the application promptly.

(2) If Amtrak objects to an application, the Secretary shall decide by not later than 180 days after the objection those costs the rail carrier may avoid if it does not have to retain or maintain a facility in the condition Amtrak requests. If Amtrak does not agree by not later than 60 days after the decision to pay the carrier these avoidable costs, the Secretary shall approve the application. When deciding whether to pay a carrier the avoidable costs of retaining or maintaining a facility, Amtrak shall consider—

(A) the potential importance of restoring rail passenger transportation on the route on which the facility is located;

(B) the market potential of the route;

(C) the availability, adequacy, and energy efficiency of an alternate rail line or alternate mode of transportation to provide passenger transportation to or near the places that would be served by the route;

(D) the extent to which major population centers would be served by the route;

(E) the extent to which providing transportation over the route would encourage the expansion of an intercity rail passenger system in the United States; and

(F) the possibility of increased ridership on a rail line that connects with the route.

(e) COMPLIANCE WITH OTHER OBLIGATIONS.—Downgrading or disposing of a facility under this section does not relieve a rail carrier from complying with its other common carrier or legal obligations related to the facility.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 913; Pub. L. 105–134, title I, § 162, Dec. 2, 1997, 111 Stat. 2578.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24309(a)	45:566(e)(1), (2).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §406; added Sept. 29, 1979, Pub. L. 96–73, §121, 93 Stat. 548.
24309(b)	45:566(a).	
24309(c)(1) ..	45:566(b).	
24309(c)(2) ..	45:566(d)(2).	
24309(d)(1) ..	45:566(c)(1).	
24309(d)(2) ..	45:566(c)(2), (d)(1).	
24309(e)	45:566(e)(3).	

In subsection (a)(1), the words ''rail line'' are substituted for ''railroad tracks'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the word ''authority'' is substituted for ''agency'' for consistency in the revised title and with other titles of the Code. The words ''obtaining the'' are omitted as surplus.

In subsection (c)(1), the words ''first'' and ''to take such action'' are omitted as surplus.

In subsection (c)(2), before clause (A), the words ''need for the'' are added for clarity. The words ''necessary or'' are omitted as surplus. The words ''Within 90 days after September 29, 1979'' and 45:566(d)(2)(A)(i) are omitted as executed. The word ''maintain'' is substituted for ''take steps to prepare'' for clarity. The words ''survey plan which shall provide for'' and ''compilation, and storage'' are omitted as surplus. In clause (F), the words ''over time'' are omitted as surplus.

In subsection (d)(2), before clause (A), the word ''timely'' is omitted as surplus. In clause (F), the words ''rail line'' are substituted for ''lines of railroad'' for consistency in the revised title and with other titles of the Code.

In subsection (e), the words ''approval of'' are omitted as surplus.

AMENDMENTS

1997—Subsec. (b). Pub. L. 105–134 inserted ''or on January 1, 1997,'' after ''1979,''.

[§ 24310. Repealed. Pub. L. 105–134, title IV, § 403, Dec. 2, 1997, 111 Stat. 2585]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 914, allowed petition or application to Secretary of Transportation for assistance in upgrading facilities to correct dangerous conditions or State and local violations.

§ 24311. Acquiring interests in property by eminent domain

(a) GENERAL AUTHORITY.—(1) To the extent financial resources are available, Amtrak may acquire by eminent domain under subsection (b) of this section interests in property—

(A) necessary for intercity rail passenger transportation, except property of a rail carrier, a State, a political subdivision of a State, or a governmental authority; or

(B) requested by the Secretary of Transportation in carrying out the Secretary's duty to design and build an intermodal transportation terminal at Union Station in the District of Columbia if the Secretary assures Amtrak that the Secretary will reimburse Amtrak.

(2) Amtrak may exercise the power of eminent domain only if it cannot—

(A) acquire the interest in the property by contract; or

(B) agree with the owner on the purchase price for the interest.

(b) CIVIL ACTIONS.—(1) A civil action to acquire an interest in property by eminent domain under subsection (a) of this section must be brought in the district court of the United States for the judicial district in which the property is located or, if a single piece of property is located in more than one judicial district, in any judicial district in which any piece of the property is located. An interest is condemned and taken by Amtrak for its use when a declaration of taking is filed under this subsection and an amount of money estimated in the declaration to be just compensation for the interest is deposited in the court. The declaration may be filed with the complaint in the action or at any time before judgment. The declaration must contain or be accompanied by—

(A) a statement of the public use for which the interest is taken;

(B) a description of the property sufficient to identify it;

(C) a statement of the interest in the property taken;

(D) a plan showing the interest taken; and

(E) a statement of the amount of money Amtrak estimates is just compensation for the interest.

(2) When the declaration is filed and the deposit is made under paragraph (1) of this subsection, title to the property vests in Amtrak in fee simple absolute or in the lesser interest shown in the declaration, and the right to the money vests in the person entitled to the money. When the declaration is filed, the court may decide—

(A) the time by which, and the terms under which, possession of the property is given to Amtrak; and

(B) the disposition of outstanding charges related to the property.

(3) After a hearing, the court shall make a finding on the amount that is just compensation for the interest in the property and enter judgment awarding that amount and interest on it. The rate of interest is 6 percent a year and is computed on the amount of the award less the amount deposited in the court from the date of taking to the date of payment.

(4) On application of a party, the court may order immediate payment of any part of the amount deposited in the court for the compensation to be awarded. If the award is more than the amount received, the court shall enter judgment against Amtrak for the deficiency.

(c) AUTHORITY TO CONDEMN RAIL CARRIER PROPERTY INTERESTS.—(1) If Amtrak and a rail carrier cannot agree on a sale to Amtrak of an interest in property of a rail carrier necessary for intercity rail passenger transportation, Amtrak may apply to the Interstate Commerce Commission for an order establishing the need of Amtrak for the interest and requiring the carrier to convey the interest on reasonable terms, including just compensation. The need of Amtrak is deemed to be established, and the Commission, after holding an expedited proceeding and not later than 120 days after receiving the application, shall order the interest conveyed unless the Commission decides that—

(A) conveyance would impair significantly the ability of the carrier to carry out its obligations as a common carrier; and

(B) the obligations of Amtrak to provide modern, efficient, and economical rail passenger transportation can be met adequately by acquiring an interest in other property, either by sale or by exercising its right of eminent domain under subsection (a) of this section.

(2) If the amount of compensation is not determined by the date of the Commission's order, the order shall require, as part of the compensation, interest at 6 percent a year from the date prescribed for the conveyance until the compensation is paid.

(3) Amtrak subsequently may reconvey to a third party an interest conveyed to Amtrak under this subsection or prior comparable provision of law if the Commission decides that the reconveyance will carry out the purposes of this part, regardless of when the proceeding was brought (including a proceeding pending before a United States court on November 28, 1990).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 915.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24311(a)	45:545(d)(1) (less words between 11th comma and proviso).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 305(d)(1); added Nov. 3, 1973, Pub. L. 93–146, § 6, 87 Stat. 550; restated Oct. 28, 1974, Pub. L. 93–496, § 6, 88 Stat. 1528; Feb. 5, 1976, Pub. L. 94–210, § 706(g), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, § 206(a), 94 Stat. 412.
24311(b)(1) ..	45:545(d)(1) (words between 11th comma and proviso).	
	45:545(d)(2), (3) (1st sentence).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 305(d)(2)–(5); added Nov. 3, 1973, Pub. L. 93–146, § 6, 87 Stat. 550.
24311(b)(2) ..	45:545(d)(3) (2d sentence), (5).	
24311(b)(3) ..	45:545(d)(3) (3d, last sentences).	
24311(b)(4) ..	45:545(d)(4).	
24311(c)	45:562(d).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 402(d); added Nov. 3, 1973, Pub. L. 93–146, § 10(2), 87 Stat. 552; Feb. 5, 1976, Pub. L. 94–210, § 706(h), 90 Stat. 125; May 30, 1980, Pub. L. 96–254, § 206(a), 94 Stat. 412; Nov. 28, 1990, Pub. L. 101–641, § 9(a), 104 Stat. 4658.
	45:562 (note).	Nov. 28, 1990, Pub. L. 101–641, § 9(b), 104 Stat. 4658.

In subsection (a)(1), before clause (A), the words ''the exercise of the right of'' and ''right-of-way, land, or other'' are omitted as surplus.

In subsection (b)(1) and (2), the words ''estate or'' are omitted as surplus.

In subsection (b)(1), before clause (A), the words ''A civil action to acquire an interest in property by eminent domain under subsection (a) of this section must be brought'' are added, the words ''any judicial district in which any piece of the property is located'' are substituted for ''any such court'', and the words ''under this subsection'' are added, for clarity.

In subsection (b)(2), before clause (A), the words ''When the declaration is filed and the deposit is made under paragraph (1) of this subsection'' are substituted for ''shall thereupon'' for clarity. The word ''immediately'' is omitted as surplus. In clause (A), the words ''possession of the property is given to Amtrak'' are substituted for ''the parties in possession are required to surrender possession to the Corporation'' to eliminate unnecessary words. Clause (B) is substituted for 45:545(d)(5) (last sentence) to eliminate unnecessary words.

In subsection (b)(3), the words ''of money'' are omitted as surplus. The words ''awarding that amount and interest on it'' are substituted for ''make an award and . . . accordingly. Such judgment shall include, as part of the just compensation awarded, interest'' to eliminate unnecessary words. The words ''of interest'' are added for clarity. The words ''finally . . . as the value of the property on the date of taking'' and ''on such date'' are omitted as surplus.

In subsection (b)(4), the word ''award'' is substituted for ''compensation finally awarded'' for consistency and to eliminate unnecessary words. The words ''of the money . . . by any person entitled to compensation'' and ''amount of the'' are omitted as surplus.

In subsection (c)(1), before clause (A), the words ''terms for'', ''at issue'', ''to the Corporation'', ''and conditions'', ''for the property'', ''in any event'', ''from the Corporation'', and ''to the Corporation on such reasonable terms and conditions as it may prescribe, including just compensation'' are omitted as surplus. In clause (A), the words ''of the property to the Corporation'' are omitted as surplus. In clause (B), the words ''either by sale or by exercising its right of eminent domain under subsection (a) of this section'' are substituted for ''which is available for sale on reasonable terms to the Corporation, or available to the Corporation by the exercise of its authority under section 545(d) of this title'' for clarity and to eliminate unnecessary words.

In subsection (c)(3), the words ''reconvey . . . an interest conveyed to Amtrak under this subsection or prior comparable provision of law'' are substituted for ''convey title or other interest in such property'' for consistency in the revised title and to eliminate unnecessary words. The words ''regardless of when the proceeding was brought'' are substituted for section 9(b) (less words in parentheses) of the Independent Safety Board Act Amendments of 1990 (Public Law 101–641, 104 Stat. 4658) to eliminate unnecessary words.

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.

§ 24312. Labor standards

(a) PREVAILING WAGES AND HEALTH AND SAFETY STANDARDS.—Amtrak shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed under an agreement made under section 24308(a) of this title will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a–5). Amtrak may make such an agreement only after being assured that required labor standards will be maintained on the construction work. Health and safety standards prescribed by the Secretary under section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) apply to all construction work performed under such an agreement, except for construction work performed by a rail carrier.

(b) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the

Railway Labor Act (45 U.S.C. 151 et seq.) are deemed to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a–5).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 916; Pub. L. 105–134, title I, §§101(f), 105(c), 121(a), Dec. 2, 1997, 111 Stat. 2572–2574.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24312(a)	45:565(d).	Oct. 30, 1970, Pub. L. 91–518, §405(d), 84 Stat. 1337.
24312(b)	45:565(e).	Oct. 30, 1970, Pub. L. 91–518, §405(e), 84 Stat. 1337; Aug. 13, 1981, Pub. L. 97–35, §1177(b), 95 Stat. 692.

In subsection (a)(1), the words ''take such action as may be necessary to'', ''the performance of'', ''with the assistance of funds received'', ''contract or'', ''at rates'', and ''adequate'' are omitted as surplus.

In subsection (a)(2), the words ''provided for'' and ''and pursuant to'' are omitted as surplus.

In subsection (b)(1), the words ''Except as provided in paragraph (2) of this subsection'' are omitted as surplus.

REFERENCES IN TEXT

Act of March 3, 1931, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, known as the Davis-Bacon Act, which is classified generally to section 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

The Railway Labor Act, referred to in subsec. (b), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended, which is classified principally to chapter 8 (§151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

AMENDMENTS

1997—Subsec. (a)(1). Pub. L. 105–134, §121(a)(2), redesignated par. (1) as subsec. (a).

Pub. L. 105–134, §§101(f), 105(c), struck out '', 24701(a), or 24704(b)(2)'' after ''24308(a)''.

Subsec. (a)(2). Pub. L. 105–134, §121(a)(3), redesignated par. (2) as subsec. (b).

Subsec. (b). Pub. L. 105–134, §121(a)(1), (3), redesignated subsec. (a)(2) as (b), inserted heading, and struck out former subsec. (b), which read as follows:

''(b) CONTRACTING OUT.—(1) Amtrak may not contract out work normally performed by an employee in a bargaining unit covered by a contract between a labor organization and Amtrak or a rail carrier that provided intercity rail passenger transportation on October 30, 1970, if contracting out results in the layoff of an employee in the bargaining unit.

''(2) This subsection does not apply to food and beverage services provided on trains of Amtrak.''

CONTRACTING OUT

Pub. L. 105–134, title I, §121(b)–(d), Dec. 2, 1997, 111 Stat. 2574, 2575, provided that:

''(b) AMENDMENT OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—

''(1) CONTRACTING OUT.—Any collective bargaining agreement entered into between Amtrak and an organization representing Amtrak employees before the date of enactment of this Act [Dec. 2, 1997] is deemed amended to include the language of section 24312(b) of title 49, United States Code, as that section existed on the day before the effective date [Dec. 2, 1997] of the amendments made by subsection (a) [amending this section].

''(2) ENFORCEABILITY OF AMENDMENT.—The amendment to any such collective bargaining agreement deemed to be made by paragraph (1) of this subsection is binding on all parties to the agreement and has the same effect as if arrived at by agreement of the parties under the Railway Labor Act [45 U.S.C. 151 et seq.].

''(c) CONTRACTING-OUT ISSUES TO BE INCLUDED IN NEGOTIATIONS.—Proposals on the subject matter of contracting out work, other than work related to food and beverage service, which results in the layoff of an Amtrak employee—

''(1) shall be included in negotiations under section 6 of the Railway Labor Act (45 U.S.C. 156) between Amtrak and an organization representing Amtrak employees, which shall be commenced by—

''(A) the date on which labor agreements under negotiation on the date of enactment of this Act [Dec. 2, 1997] may be re-opened; or

''(B) November 1, 1999,

whichever is earlier;

''(2) may, at the mutual election of Amtrak and an organization representing Amtrak employees, be included in any negotiation in progress under section 6 of the Railway Labor Act (45 U.S.C. 156) on the date of enactment of this Act; and

''(3) may not be included in any negotiation in progress under section 6 of the Railway Labor Act (45 U.S.C. 156) on the date of enactment of this Act, unless both Amtrak and the organization representing Amtrak employees agree to include it in the negotiation.

No contract between Amtrak and an organization representing Amtrak employees, that is under negotiation on the date of enactment of this Act, may contain a moratorium that extends more than 5 years from the date of expiration of the last moratorium.

''(d) NO INFERENCE.—The amendment made by subsection (a)(1) [amending this section] is without prejudice to the power of Amtrak to contract out the provision of food and beverage services on board Amtrak trains or to contract out work not resulting in the layoff of Amtrak employees.''

§ 24313. Rail safety system program

In consultation with rail labor organizations, Amtrak shall maintain a rail safety system program for employees working on property owned by Amtrak. The program shall be a model for other rail carriers to use in developing safety programs. The program shall include—

(1) periodic analyses of accident information, including primary and secondary causes;

(2) periodic evaluations of the activities of the program, particularly specific steps taken in response to an accident;

(3) periodic reports on amounts spent for occupational health and safety activities of the program;

(4) periodic reports on reduced costs and personal injuries because of accident prevention activities of the program;

(5) periodic reports on direct accident costs, including claims related to accidents; and

(6) reports and evaluations of other information Amtrak considers appropriate.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 917.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24313	45:646.	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §807; added Oct. 5, 1978, Pub. L. 95–421, §13, 92 Stat. 929.

In this section, before clause (1), the words ''No later than January 1, 1979'' are omitted as executed. The

word ''maintain'' is substituted for ''develop and implement'' for clarity. The words ''designed to serve as'' and ''required under this section'' are omitted as surplus. In clause (1), the words ''if known'' are omitted as surplus. In clause (2), the words ''undertaken'' and ''causes'' are omitted as surplus. In clauses (3)–(6), the word ''reports'' is substituted for ''identification'' for clarity. In clause (3), the word ''included'' is omitted as surplus. In clause (4), the words ''personal injuries'' are substituted for ''fatalities, and casualties'' for consistency in the revised title. The word ''activities'' is added for clarity. In clause (6), the words ''or data'' and ''necessary or'' are omitted as surplus.

[§ 24314. Repealed. Pub. L. 105–134, title IV, § 404, Dec. 2, 1997, 111 Stat. 2586]

Section, Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 917; Pub. L. 104–287, § 5(48), Oct. 11, 1996, 110 Stat. 3393, related to Amtrak developing plan for demonstrating new technology that may increase train speed in intercity rail passenger system.

§ 24315. Reports and audits

(a) AMTRAK ANNUAL OPERATIONS REPORT.—Not later than February 15 of each year, Amtrak shall submit to Congress a report that—

(1) for each route on which Amtrak provided intercity rail passenger transportation during the prior fiscal year, includes information on—

(A) ridership;

(B) passenger-miles;

(C) the short-term avoidable profit or loss for each passenger-mile;

(D) the revenue-to-cost ratio;

(E) revenues;

(F) the United States Government subsidy;

(G) the subsidy not provided by the United States Government; and

(H) on-time performance;

(2) provides relevant information about a decision to pay an officer of Amtrak more than the rate for level I of the Executive Schedule under section 5312 of title 5; and

(3) specifies—

(A) significant operational problems Amtrak identifies; and

(B) proposals by Amtrak to solve those problems.

(b) AMTRAK GENERAL AND LEGISLATIVE ANNUAL REPORT.—(1) Not later than February 15 of each year, Amtrak shall submit to the President and Congress a complete report of its operations, activities, and accomplishments, including a statement of revenues and expenditures for the prior fiscal year. The report—

(A) shall include a discussion and accounting of Amtrak's success in meeting the goal of section 24902(b)[1] of this title; and

(B) may include recommendations for legislation, including the amount of financial assistance needed for operations and capital improvements, the method of computing the assistance, and the sources of the assistance.

(2) Amtrak may submit reports to the President and Congress at other times Amtrak considers desirable.

(c) SECRETARY'S REPORT ON EFFECTIVENESS OF THIS PART.—The Secretary of Transportation shall prepare a report on the effectiveness of this part in meeting the requirements for a balanced transportation system in the United States. The report may include recommendations for legislation. The Secretary shall include this report as part of the annual report the Secretary submits under section 308(a) of this title.

(d) INDEPENDENT AUDITS.—An independent certified public accountant shall audit the financial statements of Amtrak each year. The audit shall be carried out at the place at which the financial statements normally are kept and under generally accepted auditing standards. A report of the audit shall be included in the report required by subsection (a) of this section.

(e) COMPTROLLER GENERAL AUDITS.—The Comptroller General may conduct performance audits of the activities and transactions of Amtrak. Each audit shall be conducted at the place at which the Comptroller General decides and under generally accepted management principles. The Comptroller General may prescribe regulations governing the audit.

(f) AVAILABILITY OF RECORDS AND PROPERTY OF AMTRAK AND RAIL CARRIERS.—Amtrak and, if required by the Comptroller General, a rail carrier with which Amtrak has made a contract for intercity rail passenger transportation shall make available for an audit under subsection (d) or (e) of this section all records and property of, or used by, Amtrak or the carrier that are necessary for the audit. Amtrak and the carrier shall provide facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. Amtrak and the carrier may keep all reports and property.

(g) COMPTROLLER GENERAL'S REPORT TO CONGRESS.—The Comptroller General shall submit to Congress a report on each audit, giving comments and information necessary to inform Congress on the financial operations and condition of Amtrak and recommendations related to those operations and conditions. The report also shall specify any financial transaction or undertaking the Comptroller General considers is carried out without authority of law. When the Comptroller General submits a report to Congress, the Comptroller General shall submit a copy of it to the President, the Secretary, and Amtrak at the same time.

(h) ACCESS TO RECORDS AND ACCOUNTS.—A State shall have access to Amtrak's records, accounts, and other necessary documents used to determine the amount of any payment to Amtrak required of the State.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 918; Pub. L. 105–134, title II, § 206, Dec. 2, 1997, 111 Stat. 2584.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24315(a)	45:548(a).	Oct. 30, 1970, Pub. L. 91–518, § 308(a), 84 Stat. 1333; June 22, 1972, Pub. L. 92–316, § 4, 86 Stat. 228; Sept. 29, 1979, Pub. L. 96–73, § 113, 93 Stat. 542; Aug. 13, 1981, Pub. L. 97–35, § 1180(a), 95 Stat. 693; restated Apr. 7, 1986, Pub. L. 99–272, § 4005, 100 Stat. 107; June 22, 1988, Pub. L. 100–342, § 18(d), 102 Stat. 637.

[1] See References in Text note below.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24315(b)	45:548(b).	Oct. 30, 1970, Pub. L. 91–518, §308(b), 84 Stat. 1333; restated June 22, 1972, Pub. L. 92–316, §4, 86 Stat. 229; Nov. 3, 1973, Pub. L. 93–146, §8, 87 Stat. 551; May 26, 1975, Pub. L. 94–25, §4(a), 89 Stat. 90.
	45:851(d)(2).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §701(d)(2); added May 30, 1980, Pub. L. 96–254, §205, 94 Stat. 412.
24315(c)	45:548(c).	Oct. 30, 1970, Pub. L. 91–518, §308(c), 84 Stat. 1333; restated June 22, 1972, Pub. L. 92–316, §4, 86 Stat. 229; May 26, 1975, Pub. L. 94–25, §4(b), 89 Stat. 90; Aug. 13, 1981, Pub. L. 97–35, §1180(b), 95 Stat. 693.
24315(d)	45:644(1)(A) (1st, 2d sentences), (B).	Oct. 30, 1970, Pub. L. 91–518, §805(1), 84 Stat. 1340.
24315(e)	45:644(2)(A) (1st, 2d sentences).	Oct. 30, 1970, Pub. L. 91–518, §805(2)(A), 84 Stat. 1340; Oct. 28, 1974, Pub. L. 93–496, §11, 88 Stat. 1531; Apr. 7, 1986, Pub. L. 99–272, §4007(a), 100 Stat. 108.
24315(f)	45:644(1)(A) (last sentence), (2)(A) (3d, last sentences).	
	45:644(2)(B).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §805(2)(B); added June 22, 1972, Pub. L. 92–316, §11(2), 86 Stat. 233; Apr. 7, 1986, Pub. L. 99–272, §4007(a)(2), 100 Stat. 108.
24315(g)	45:644(2)(C).	Oct. 30, 1970, Pub. L. 91–518, §805(2)(C), 84 Stat. 1340; June 22, 1972, Pub. L. 92–316, §11(2), 86 Stat. 233.

In subsection (a)(2), the words ''to . . . compensation'' and ''prescribed'' are omitted as surplus.

In subsection (b)(1), before clause (A), the words ''(beginning with 1973)'' are omitted as executed. The word ''complete'' is substituted for ''comprehensive and detailed'' to eliminate unnecessary words. The words ''under this chapter'' are omitted as surplus. The word ''revenues'' is substituted for ''receipts'' for consistency. In clause (B), the words ''may include recommendations for legislation'' are substituted for ''At the time of its annual report, the Corporation shall submit such legislative recommendations as it deems desirable'', the words ''the method of computing the assistance'' are substituted for ''the manner and form in which the amount of such assistance should be computed'', and the words ''of the assistance'' are substituted for ''from which such assistance should be derived'', to eliminate unnecessary words.

In subsection (c), the words ''(beginning with 1974)'' are omitted as executed. The word ''prepare'' is substituted for ''transmit to the President and to the Congress by March 15 of each year'' for clarity because the report is now part of the annual report under 49:308(a). The words ''Beginning in 1976'' are omitted as executed. The word ''Secretary'' is substituted for ''Department of Transportation'' because of 49:102(b). The words ''submits under section 308(a) of this title'' are substituted for ''to the Congress'' for clarity.

In subsection (d), the words ''independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States'' are omitted as obsolete because only certified public accountants are used for the audit. Only noncertified public accountants licensed before December 30, 1970, who were already conducting audits were allowed to continue. The words ''or places'' are omitted because of 1:1. The words ''financial statements'' are substituted for ''accounts'' because audits are performed on financial statements, not accounts. The words ''independent'' and ''annual'' are omitted as surplus. The text of 45:644(1)(B) (last sentence) is omitted as surplus because those requirements are included in ''generally accepted auditing standards''.

In subsection (e), the word ''rules'' is omitted as being synonymous with ''regulations''. The words ''or places'' are omitted because of 1:1. The word ''appropriate'' is omitted as surplus.

In subsection (f), the words ''if required'' are substituted for ''To the extent . . . deems necessary'' to eliminate unnecessary words. The words ''the person conducting'', ''The representatives of the Comptroller General'', ''his representatives'', ''as he may make of the financial transactions of the Corporation'', ''things, or'', and ''full'' are omitted as surplus. The words ''may keep'' are substituted for ''shall remain in possession and custody of'' and ''shall remain in the possession and custody of'' to eliminate unnecessary words.

In subsection (g), the word ''giving'' is substituted for ''The report to the Congress shall contain such'' to eliminate unnecessary words. The words ''as the Comptroller General may deem'', ''as he may deem advisable'', ''program, expenditure or other'', ''observed in the course of the audit'', and ''or made'' are omitted as surplus.

REFERENCES IN TEXT

Section 24902(b) of this title, referred to in subsec. (b)(1)(A), was redesignated section 24902(a) and section 24902(e) was redesignated section 24902(b) by Pub. L. 105–134, title IV, §405(b)(1)(A), Dec. 2, 1997, 111 Stat. 2586.

AMENDMENTS

1997—Subsec. (h). Pub. L. 105–134 added subsec. (h).

AMTRAK TO NOTIFY CONGRESS OF LOBBYING RELATIONSHIPS

Pub. L. 105–134, title IV, §414, Dec. 2, 1997, 111 Stat. 2589, provided that: ''If, at any time, during a fiscal year in which Amtrak receives Federal assistance, Amtrak enters into a consulting contract or similar arrangement, or a contract for lobbying, with a lobbying firm, an individual who is a lobbyist, or who is affiliated with a lobbying firm, as those terms are defined in section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602), Amtrak shall notify the United States Senate Committee on Commerce, Science, and Transportation, and the United States House of Representatives Committee on Transportation and Infrastructure of—

''(1) the name of the individual or firm involved;

''(2) the purpose of the contract or arrangement; and

''(3) the amount and nature of Amtrak's financial obligation under the contract.

This section applies only to contracts, renewals or extensions of contracts, or arrangements entered into after the date of the enactment of this Act [Dec. 2, 1997].''

[CHAPTER 245—REPEALED]

[§§ 24501 to 24506. Repealed. Pub. L. 105–134, title I, § 106(a), Dec. 2, 1997, 111 Stat. 2573]

Section 24501, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 919; Pub. L. 103–429, §6(21), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 104–88, title III, §308(h), Dec. 29, 1995, 109 Stat. 947, related to status of Amtrak Commuter and applicable laws.

Section 24502, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 920, related to board of directors of Amtrak Commuter.

Section 24503, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 921, related to appointment and service of officers of Amtrak Commuter.

Section 24504, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 921, related to general authority of Amtrak Commuter.

Section 24505, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 921, related to Amtrak's rights and responsibilities as relating to commuter rail passenger transportation.

Section 24506, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 922, provided that certain powers and duties of Consolidated Rail Corporation were not affected by this chapter.

TRACKAGE RIGHTS NOT AFFECTED

Pub. L. 105–134, title I, §106(c), Dec. 2, 1997, 111 Stat. 2573, provided that: ''The repeal of chapter 245 of title 49, United States Code, by subsection (a) of this section is without prejudice to the retention of trackage rights over property owned or leased by commuter authorities.''

CHAPTER 247—AMTRAK ROUTE SYSTEM

Sec.
24701. National rail passenger transportation system.
[24702 to 24705. Repealed.]
24706. Discontinuance.
[24707, 24708. Repealed.]
24709. International transportation.

AMENDMENTS

1997—Pub. L. 105–134, title I, §§101(a)(2), (b), (d), (e), 103–105(a), Dec. 2, 1997, 111 Stat. 2572, 2573, substituted ''National rail passenger transportation system'' for ''Operation of basic system'' in item 24701 and struck out item 24702 ''Improving rail passenger transportation'', item 24703 ''Route and service criteria'', item 24704 ''Transportation requested by States, authorities, and other persons'', item 24705 ''Additional qualifying routes'', item 24707 ''Cost and performance review'', and item 24708 ''Special commuter transportation''.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 24104, 24902 of this title.

§ 24701. National rail passenger transportation system

Amtrak shall operate a national rail passenger transportation system which ties together existing and emergent regional rail passenger service and other intermodal passenger service.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 923; Pub. L. 105–134, title I, §101(a)(1), Dec. 2, 1997, 111 Stat. 2572.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24701(a)	45:561(b).	Oct. 30, 1970, Pub. L. 91–518, §401(b), 84 Stat. 1335.
24701(b)	45:561(c).	Oct. 30, 1970, Pub. L. 91–518, §401(c), 84 Stat. 1335; Nov. 3, 1973, Pub. L. 93–146, §9, 87 Stat. 551.

In subsection (a), before clause (1), the text of 45:561(b) (1st sentence words after 3d comma) is omitted as obsolete because no regional transportation authority provided intercity rail passenger transportation after May 1, 1971. The words ''On May 1, 1971'' and ''begin'' are omitted as executed. The words ''between points'' and ''either'' are omitted as surplus. In clause (2), the words ''under contract with Amtrak'' are substituted for 45:561(b) (last sentence) for clarity and to eliminate unnecessary words. The words ''at any time subsequent to May 1, 1971'' are omitted as executed.

In subsection (b), the words ''concerning auto-ferry service . . . railroad or any other'' are omitted as surplus.

AMENDMENTS

1997—Pub. L. 105–134 substituted section catchline for former catchline which read ''Operation of basic system'' and amended text generally. Prior to amendment, text read as follows:

''(a) BY AMTRAK.—Amtrak shall provide intercity rail passenger transportation within the basic system unless the transportation is provided by—

''(1) a rail carrier with which Amtrak did not make a contract under section 401(a) of the Rail Passenger Service Act; or

''(2) a regional transportation authority under contract with Amtrak.

''(b) BY OTHERS WITH CONSENT OF AMTRAK.—Except as provided in section 24306 of this title, a person may provide intercity rail passenger transportation over a route over which Amtrak provides scheduled intercity rail passenger transportation under a contract under section 401(a) of the Act only with the consent of Amtrak.''

[§§ 24702 to 24705. Repealed. Pub. L. 105–134, title I, §§101(b), 103–105(a), Dec. 2, 1997, 111 Stat. 2572, 2573]

Section 24702, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 923; Pub. L. 104–287, §5(48), Oct. 11, 1996, 110 Stat. 3393, related to carrying out plan to improve intercity rail passenger service.

Section 24703, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 924, provided route and service criteria for modifying or discontinuing routes.

Section 24704, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 925, related to application by States, regional or local authorities, or other persons requesting Amtrak to provide passenger rail service and criteria for decision.

Section 24705, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 926; Pub. L. 104–88, title III, §308(i), Dec. 29, 1995, 109 Stat. 947, related to providing service on routes recommended to be discontinued, criteria for deferring Secretary's recommendation, and providing short haul demonstration routes.

§ 24706. Discontinuance

(a) NOTICE OF DISCONTINUANCE.—(1) Except as provided in subsection (b) of this section, at least 180 days before a discontinuance under section 24704[1] or or[2] discontinuing service over a route, Amtrak shall give notice of the discontinuance in the way Amtrak decides will give a State, a regional or local authority, or another person the opportunity to agree to share or assume the cost of any part of the train, route, or service to be discontinued.

(2) Notice of the discontinuance under section 24704[1] or paragraph (1) shall be posted in all stations served by the train to be discontinued at least 14 days before the discontinuance.

(b) DISCONTINUANCE FOR LACK OF APPROPRIATIONS.—(1) Amtrak may discontinue service under section 24704[1] or subsection (a)(1) during—

(A) the first month of a fiscal year if the authorization of appropriations and the appropriations for Amtrak are not enacted at least 90 days before the beginning of the fiscal year; and

(B) the 30 days following enactment of an appropriation for Amtrak or a rescission of an appropriation.

(2) Amtrak shall notify each affected State or regional or local transportation authority of a discontinuance under this subsection as soon as possible after Amtrak decides to discontinue the service.

[1] See References in Text note below.

[2] So in original.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 927; Pub. L. 105–134, title I, §§101(c), 142(a), Dec. 2, 1997, 111 Stat. 2572, 2576.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24706(a)(1) ..	45:564(c)(4)(F)(ii).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §404(c)(4)(F); added Sept. 29, 1979, Pub. L. 96–73, §117, 93 Stat. 545; restated Aug. 13, 1981, Pub. L. 97–35, §1183(b), 95 Stat. 696.
24706(a)(2) ..	45:564(c)(4)(F)(i).	
24706(b)	45:564(c)(4)(F)(iii).	
24706(c)(1) ..	45:565(a) (2d sentence).	Oct. 30, 1970, Pub. L. 91–518, §405(a) (1st, 2d sentences), 84 Stat. 1337; restated June 22, 1972, Pub. L. 92–316, §7(a), 86 Stat. 230.
	45:565(a) (last sentence).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §405(a) (last sentence); added Apr. 7, 1986, Pub. L. 99–272, §4016, 100 Stat. 110.
24706(c)(2) ..	45:565(a) (1st sentence).	
	45:565(b) (1st sentence).	Oct. 30, 1970, Pub. L. 91–518, §405(b) (1st–3d sentences), 84 Stat. 1337.
	45:565(c) (1st sentence words before 2d comma).	Oct. 30, 1970, Pub. L. 91–518, §405(c), 84 Stat. 1337; restated June 22, 1972, Pub. L. 92–316, §7(c), 86 Stat. 230.
24706(c)(3) ..	45:565(b) (2d sentence).	
24706(c)(4) ..	45:565(b) (3d sentence).	
24706(c)(5) ..	45:565(c) (1st sentence words after 2d comma, last sentence).	
24706(c)(6) ..	45:565(g).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §405(g); added Aug. 13, 1981, Pub. L. 97–35, §1188(d), 95 Stat. 699.

In subsection (a)(1), the words ''Except as provided in subsection (b) of this section'' are added for clarity. The word ''authority'' is substituted for ''agency'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), before clause (A), the words ''Notwithstanding the provisions of clause (ii)'' are omitted as surplus. In clauses (A) and (B), the words ''the benefit of'' are omitted as surplus. In clause (A), the words ''for such fiscal year'' are omitted as surplus.

In subsection (c)(1), before clause (A), the words ''Amtrak or'' are substituted for 45:565(c) (1st sentence words before 2d comma) to eliminate unnecessary words because operations in the basic system have begun. The words ''whether occurring before, on, or after January 1, 1975'' and ''without being limited to, such provisions as may be necessary for'' are omitted as surplus. In clause (A), the words ''to such employees'' are omitted as surplus.

In subsection (c)(3), the words ''section 11347 of this title'' are substituted for and coextensive with ''section 5(2)(f) of the Interstate Commerce Act'' in section 405(b) of the Rail Passenger Service Act (Public Law 91–518, 84 Stat. 1337) on authority of section 3(b) of the Act of October 17, 1978 (Public Law 95–473, 92 Stat. 1466).

In subsection (c)(5), the words ''be construed to'' are omitted as surplus. The text of 45:565(c) (last sentence) is omitted as executed.

REFERENCES IN TEXT

Section 24704 of this title, referred to in text, was repealed by Pub. L. 105–134, title I, §105(a), Dec. 2, 1997, 111 Stat. 2573.

AMENDMENTS

1997—Subsec. (a)(1). Pub. L. 105–134, §101(c)(1)–(3), substituted ''180 days'' for ''90 days'' and ''or discontinuing service over a route,'' for ''24707(a) or (b) of this title,'' and inserted ''or assume'' after ''agree to share''.

Subsec. (a)(2). Pub. L. 105–134, §101(c)(4), which directed substitution of ''paragraph (1)'' for ''section 24707(a) or (b) of this title'', was executed by making the substitution for ''24707(a) or (b) of this title'' to reflect the probable intent of Congress.

Subsec. (b)(1). Pub. L. 105–134, §101(c)(5), which directed substitution of ''subsection (a)(1)'' for ''section 24707(a) or (b) of this title'', was executed by making the substitution for ''24707(a) or (b) of this title'' to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 105–134, §142(a), struck out subsec. (c) which related to employee protective arrangements.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 142(a) of Pub. L. 105–134 effective 180 days after Dec. 2, 1997, see section 142(c) of Pub. L. 105–134, set out in an Employee Protection Reforms note below.

EMPLOYEE PROTECTION REFORMS

Pub. L. 105–134, title I, §§141, 142, Dec. 2, 1997, 111 Stat. 2575, 2576, provided that:

''SEC. 141. RAILWAY LABOR ACT PROCEDURES.

''(a) NOTICES.—Notwithstanding any arrangement in effect before the date of the enactment of this Act [Dec. 2, 1997], notices under section 6 of the Railway Labor Act (45 U.S.C. 156) with respect to all issues relating to employee protective arrangements and severance benefits which are applicable to employees of Amtrak, including all provisions of Appendix C–2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973, shall be deemed served and effective on the date which is 45 days after the date of the enactment of this Act. Amtrak, and each affected labor organization representing Amtrak employees, shall promptly supply specific information and proposals with respect to each such notice.

''(b) NATIONAL MEDIATION BOARD EFFORTS.—Except as provided in subsection (c), the National Mediation Board shall complete all efforts, with respect to the dispute described in subsection (a), under section 5 of the Railway Labor Act (45 U.S.C. 155) not later than 120 days after the date of the enactment of this Act [Dec. 2, 1997].

''(c) RAILWAY LABOR ACT ARBITRATION.—The parties to the dispute described in subsection (a) may agree to submit the dispute to arbitration under section 7 of the Railway Labor Act (45 U.S.C. 157), and any award resulting therefrom shall be retroactive to the date which is 120 days after the date of the enactment of this Act [Dec. 2, 1997].

''(d) DISPUTE RESOLUTION.—(1) With respect to the dispute described in subsection (a) which—

''(A) is unresolved as of the date which is 120 days after the date of the enactment of this Act [Dec. 2, 1997]; and

''(B) is not submitted to arbitration as described in subsection (c),

Amtrak shall, and the labor organization parties to such dispute shall, within 127 days after the date of the enactment of this Act, each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within 134 days after the date of the enactment of this Act, the individuals selected under the preceding sentence shall jointly select an individual from such roster to make recommendations with respect to such dispute under this subsection. If the National Mediation Board is not informed of the selection under the preceding sentence 134 days after the date of enactment of this Act, the Board shall immediately select such individual.

''(2) No individual shall be selected under paragraph (1) who is pecuniarily or otherwise interested in any organization of employees or any railroad.

''(3) The compensation of individuals selected under paragraph (1) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act [45 U.S.C. 160] shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

''(4) If the parties to a dispute described in subsection (a) fail to reach agreement within 150 days after the date of the enactment of this Act, the individual selected under paragraph (1) with respect to such dispute shall make recommendations to the parties proposing contract terms to resolve the dispute.

''(5) If the parties to a dispute described in subsection (a) fail to reach agreement, no change shall be made by either of the parties in the conditions out of which the dispute arose for 30 days after recommendations are made under paragraph (4).

''(6) Section 10 of the Railway Labor Act (45 U.S.C. 160) shall not apply to a dispute described in subsection (a).

''(e) NO PRECEDENT FOR FREIGHT.—Nothing in this Act [see Short Title of 1997 Amendment note set out under section 20101 of this title], or in any amendment made by this Act, shall affect the level of protection provided to freight railroad employees and mass transportation employees as it existed on the day before the date of enactment of this Act [Dec. 2, 1997].

''SEC. 142. SERVICE DISCONTINUANCE.

''(a) REPEAL.—Section 24706(c) is repealed.

''(b) EXISTING CONTRACTS.—Any provision of a contract entered into before the date of the enactment of this Act [Dec. 2, 1997] between Amtrak and a labor organization representing Amtrak employees relating to employee protective arrangements and severance benefits applicable to employees of Amtrak is extinguished, including all provisions of Appendix C–2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973.

''(c) SPECIAL EFFECTIVE DATE.—Subsections (a) [amending this section] and (b) of this section shall take effect 180 days after the date of the enactment of this Act [Dec. 2, 1997].

''(d) NONAPPLICATION OF BANKRUPTCY LAW PROVISION.—Section 1172(c) of title 11, United States Code, shall not apply to Amtrak and its employees.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10903, 11326 of this title.

[§§ 24707, 24708. Repealed. Pub. L. 105–134, title I, § 101(d), (e), Dec. 2, 1997, 111 Stat. 2572]

Section 24707, Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 928, required annual route, financial, and performance reviews.

Section 24708, Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 929, related to continuing, modifying, or discontinuing passenger transportation routes.

§ 24709. International transportation

Amtrak may develop and operate international intercity rail passenger transportation between the United States and Canada and between the United States and Mexico. The Secretary of the Treasury and the Attorney General, in cooperation with Amtrak, shall maintain, consistent with the effective enforcement of the immigration and customs laws, en route customs inspection and immigration procedures for international intercity rail passenger transportation that will—

(1) be convenient for passengers; and

(2) result in the quickest possible international intercity rail passenger transportation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 929.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24709	45:545(e)(7) (less words between parentheses).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 305(e)(7) (less words between parentheses); added Nov. 3, 1973, Pub. L. 93–146, § 6, 87 Stat. 551.
	45:545(i).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 305(i); added Oct. 28, 1974, Pub. L. 93–496, § 4, 88 Stat. 1527; restated May 26, 1975, Pub. L. 94–25, § 3, 89 Stat. 90; Sept. 29, 1979, Pub. L. 96–73, § 106, 93 Stat. 539; Aug. 13, 1981, Pub. L. 97–35, § 1176, 95 Stat. 692; Apr. 7, 1986, Pub. L. 99–272, § 13031(h)(1), 100 Stat. 310.

In this section, before clause (1), the words ''points within'', ''points in'', and ''including Montreal, Canada; Vancouver, Canada; and Nuevo Laredo, Mexico'' in 45:545(e)(7) are omitted as surplus. The words ''establish and'' in 45:545(i) (1st sentence) are omitted as executed. The words ''trains operated in'' are omitted as surplus.

CHAPTER 249—NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

Sec.
24901. Definitions.
24902. Goals and requirements.
[24903. Repealed.]
24904. General authority.
24905. Coordination board and safety committee.
24906. Eliminating highway at-grade crossings.
24907. Note and mortgage.
24908. Transfer taxes and levies and recording charges.
24909. Authorization of appropriations.

AMENDMENTS

1997—Pub. L. 105–134, title IV, § 405(a), Dec. 2, 1997, 111 Stat. 2586, struck out item 24903 ''Program master plan for Boston-New York main line''.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 306, 24104 of this title.

§ 24901. Definitions

In this chapter—

(1) ''final system plan'' means the final system plan (including additions) adopted by the United States Railway Association under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.).

(2) ''rail carrier'' means an express carrier and a rail carrier as defined in section 10102 of this title, including Amtrak.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 930.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24901(1)	(no source).	
24901(2)	(no source).	

This section is derived from 45:802 for clarity. That section contains definitions for the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210, 90 Stat. 33). Title VII of that Act is the source of the source provisions restated in this chapter. However, other titles of that Act are not being restated because they are outside the scope of the restatement. Therefore, 45:802 is not being restated in this restatement and only the relevant definitions are accounted for in this chapter.

REFERENCES IN TEXT

The Regional Rail Reorganization Act of 1973, referred to in par. (1), is Pub. L. 93–236, Jan. 2, 1974, 87 Stat. 985, as amended, which is classified principally to chapter 16 (§ 701 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 45 and Tables.

§ 24902. Goals and requirements

(a) MANAGING COSTS AND REVENUES.—Amtrak shall manage its operating costs, pricing policies, and other factors with the goal of having revenues derived each fiscal year from providing intercity rail passenger transportation over the Northeast Corridor route between the District of Columbia and Boston, Massachusetts, equal at least the operating costs of providing that transportation in that fiscal year.

(b) PRIORITIES IN SELECTING AND SCHEDULING PROJECTS.—When selecting and scheduling specific projects, Amtrak shall apply the following considerations, in the following order of priority:

(1) Safety-related items should be completed before other items because the safety of the passengers and users of the Northeast Corridor is paramount.

(2) Activities that benefit the greatest number of passengers should be completed before activities involving fewer passengers.

(3) Reliability of intercity rail passenger transportation must be emphasized.

(4) Trip-time requirements of this section must be achieved to the extent compatible with the priorities referred to in paragraphs (1)–(3) of this subsection.

(5) Improvements that will pay for the investment by achieving lower operating or maintenance costs should be carried out before other improvements.

(6) Construction operations should be scheduled so that the fewest possible passengers are inconvenienced, transportation is maintained, and the on-time performance of Northeast Corridor commuter rail passenger and rail freight transportation is optimized.

(7) Planning should focus on completing activities that will provide immediate benefits to users of the Northeast Corridor.

(c) COMPATIBILITY WITH FUTURE IMPROVEMENTS AND PRODUCTION OF MAXIMUM LABOR BENEFITS.—Improvements under this section shall be compatible with future improvements in transportation and shall produce the maximum labor benefit from hiring individuals presently unemployed.

(d) AUTOMATIC TRAIN CONTROL SYSTEMS.—A train operating on the Northeast Corridor main line or between the main line and Atlantic City shall be equipped with an automatic train control system designed to slow or stop the train in response to an external signal.

(e) HIGH-SPEED TRANSPORTATION.—If practicable, Amtrak shall establish intercity rail passenger transportation in the Northeast Corridor that carries out section 703(1)(E) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210, 90 Stat. 121).

(f) EQUIPMENT DEVELOPMENT.—Amtrak shall develop economical and reliable equipment compatible with track, operating, and marketing characteristics of the Northeast Corridor, including the capability to meet reliable trip times under section 703(1)(E) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210, 90 Stat. 121) in regularly scheduled revenue transportation in the Corridor, when the Northeast Corridor improvement program is completed. Amtrak must decide that equipment complies with this subsection before buying equipment with financial assistance of the Government. Amtrak shall submit a request for an authorization of appropriations for production of the equipment.

(g) AGREEMENTS FOR OFF-CORRIDOR ROUTING OF RAIL FREIGHT TRANSPORTATION.—(1) Amtrak may make an agreement with a rail freight carrier or a regional transportation authority under which the carrier will carry out an alternate off-corridor routing of rail freight transportation over rail lines in the Northeast Corridor between the District of Columbia and New York metropolitan areas, including intermediate points. The agreement shall be for at least 5 years.

(2) Amtrak shall apply to the Interstate Commerce Commission for approval of the agreement and all related agreements accompanying the application as soon as the agreement is made. If the Commission finds that approval is necessary to carry out this chapter, the Commission shall approve the application and related agreements not later than 90 days after receiving the application.

(3) If an agreement is not made under paragraph (1) of this subsection, Amtrak, with the consent of the other parties, may apply to the Interstate Commerce Commission. Not later than 90 days after the application, the Commission shall decide on the terms of an agreement if it decides that doing so is necessary to carry out this chapter. The decision of the Commission is binding on the other parties.

(h) COORDINATION.—(1) The Secretary of Transportation shall coordinate—

(A) transportation programs related to the Northeast Corridor to ensure that the programs are integrated and consistent with the Northeast Corridor improvement program; and

(B) amounts from departments, agencies, and instrumentalities of the Government to achieve urban redevelopment and revitalization in the vicinity of urban rail stations in the Northeast Corridor served by intercity and commuter rail passenger transportation.

(2) If the Secretary finds significant noncompliance with this section, the Secretary may deny financing to a noncomplying program until the noncompliance is corrected.

(i) COMPLETION.—Amtrak shall give the highest priority to completing the program.

(j) APPLICABLE PROCEDURES.—No State or local building, zoning, subdivision, or similar or related law, nor any other State or local law from which a project would be exempt if undertaken by the Federal Government or an agency thereof within a Federal enclave wherein Federal jurisdiction is exclusive, including without limitation with respect to all such laws referenced herein above requirements for permits, actions, approvals or filings, shall apply in con-

nection with the construction, ownership, use, operation, financing, leasing, conveying, mortgaging or enforcing a mortgage of (i) any improvement undertaken by or for the benefit of Amtrak as part of, or in furtherance of, the Northeast Corridor Improvement Project (including without limitation maintenance, service, inspection or similar facilities acquired, constructed or used for high speed trainsets) or chapter 241, 243, or 247 of this title or (ii) any land (and right, title or interest created with respect thereto) on which such improvement is located and adjoining, surrounding or any related land. These exemptions shall remain in effect and be applicable with respect to such land and improvements for the benefit of any mortgagee before, upon and after coming into possession of such improvements or land, any third party purchasers thereof in foreclosure (or through a deed in lieu of foreclosure), and their respective successors and assigns, in each case to the extent the land or improvements are used, or held for use, for railroad purposes or purposes accessory thereto. This subsection shall not apply to any improvement or related land unless Amtrak receives a Federal operating subsidy in the fiscal year in which Amtrak commits to or initiates such improvement.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 930; Pub. L. 104–205, title III, § 334, Sept. 30, 1996, 110 Stat. 2974; Pub. L. 105–134, title IV, § 405(b)(1), Dec. 2, 1997, 111 Stat. 2586.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24902(a)	45:853(1)(A).	Feb. 5, 1976, Pub. L. 94–210, § 703(1)(A), 90 Stat. 121; Oct. 5, 1978, Pub. L. 95–421, § 8(1), 92 Stat. 927; May 30, 1980, Pub. L. 96–254, § 202(1), (2), 94 Stat. 410; Jan. 14, 1983, Pub. L. 97–468, § 301(1), 96 Stat. 2547.
	45:853(1)(B) (1st sentence).	Feb. 5, 1976, Pub. L. 94–210, § 703(1)(B), 90 Stat. 121; Oct. 5, 1978, Pub. L. 95–421, § 8(2), 92 Stat. 927.
	45:853(2)(A).	Feb. 5, 1976, Pub. L. 94–210, § 703(2)(A), 90 Stat. 122; Oct. 5, 1978, Pub. L. 95–421, § 5(1), 92 Stat. 926.
	45:853(2)(B).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, § 703(2)(B); added Oct. 5, 1978, Pub. L. 95–421, § 5(2), 92 Stat. 927.
	45:853(3)(A).	Feb. 5, 1976, Pub. L. 94–210, § 703(3)(A), 90 Stat. 122; May 30, 1980, Pub. L. 96–254, § 203(1), 94 Stat. 410.
	45:853(4) (1st sentence).	Feb. 5, 1976, Pub. L. 94–210, § 703(1)(C), (4), 90 Stat. 121, 122.
	45:853(6).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, § 703(6); added May 30, 1980, Pub. L. 96–254, § 203(2), 94 Stat. 411.
	45:855(b).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, § 705(b); added May 30, 1980, Pub. L. 96–254, § 206(a), 94 Stat. 413; Jan. 14, 1983, Pub. L. 97–468, § 301(5)(B), 96 Stat. 2550.
24902(b)	45:851(d)(1).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, § 701(d)(1); added May 30, 1980, Pub. L. 96–254, § 205, 94 Stat. 412.
24902(c)(1) ..	45:853(1)(B) (last sentence).	
	45:855(b).	
24902(c)(2), (3).	45:854(i).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, § 704(i); added May 30, 1980, Pub. L. 96–254, § 204(b), 94 Stat. 411.
	45:855(b).	
24902(d)	45:853(4) (last sentence).	
24902(e)	45:853(7).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, § 703(7); added May 30, 1980, Pub. L. 96–254, § 209, 94 Stat. 414.
24902(f)	45:853(1)(C).	
24902(g)	45:431(k).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, § 202(k); added June 22, 1988, Pub. L. 100–342, § 9, 102 Stat. 628.
24902(h)	45:853(1)(E).	Feb. 5, 1976, Pub. L. 94–210, § 703(1)(E), 90 Stat. 121; May 30, 1980, Pub. L. 96–254, § 202(3), 94 Stat. 410.
	45:855(b).	
24902(i)	45:853(5).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, § 703(5); added Oct. 5, 1978, Pub. L. 95–421, § 8(3), 92 Stat. 927.
	45:855(b).	
24902(j)	45:853(3)(B).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, § 703(3)(B); added May 30, 1980, Pub. L. 96–254, § 203(1), 94 Stat. 410.
	45:855(b).	
24902(k)	45:854(c)(1).	Feb. 5, 1976, Pub. L. 94–210, § 704(c)(1), 90 Stat. 123; May 30, 1980, Pub. L. 96–254, § 210(1), 94 Stat. 414.
	45:854(c)(2).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, § 704(c)(2); added May 30, 1980, Pub. L. 96–254, § 210(2), 94 Stat. 414.
24902(*l*)	45:545(h) (last sentence).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 305(h) (last sentence); added Oct. 28, 1974, Pub. L. 93–496, § 3, 88 Stat. 1527; Sept. 29, 1979, Pub. L. 96–73, § 106, 93 Stat. 539.
	45:855(b).	

In this section, the word ''program'' is substituted for ''project'' for consistency in this chapter.

In subsection (a)(1)(A) and (B), the words ''schedule'' and ''appropriate'' are omitted as surplus.

In subsection (a)(2), the words ''in order'' and ''rail'' are omitted as surplus.

In subsection (a)(4)–(6), the words ''the goals contained in'' are omitted as surplus.

In subsection (a)(4), the text of 45:853(2)(B) is omitted as executed.

In subsection (a)(5), the words ''to all users of rail freight service located'' are omitted as surplus. The word ''in'' is substituted for ''on'' as being more appropriate. The words ''all . . . which remain'' are omitted as surplus.

In subsection (a)(6), the word ''mobile'' is added for consistency in this chapter. The word ''on'' is substituted for ''aboard trains operated in'' to eliminate unnecessary words. The word ''passenger'' after ''rail'' is added for consistency in this chapter. The word ''Washington'' is omitted as surplus.

In subsection (b), the words ''each fiscal year'' are substituted for ''annual'' for clarity. The text of 45:851(d)(1)(A) and (B) is omitted as obsolete.

In subsection (c)(1), the words ''in his sole discretion'' are omitted as surplus.

In subsection (c)(2)(B), the words ''and in the amounts'' are omitted as surplus.

In subsection (d), the words ''department, agencies, and instrumentalities of the United States Government'' are substituted for ''relevant Federal agencies, including the Federal Communications Commission'' for consistency in the revised title and with other titles of the United States Code. The words ''shall assist Amtrak under subsection (a)(6) of this section'' are substituted for ''shall take such actions as are necessary to achieve this goal'' for clarity. The words ''including necessary licensing, construction, operation, and maintenance'' are omitted as surplus.

In subsection (e), before clause (1), the words ''of priority'' are added for clarity. In clause (2), the words ''Potential ridership should be considered'' are omitted

as surplus. In clause (5), the words ''Reducing maintenance cost levels is desirable'' are omitted as surplus. The words ''before other improvements'' are added for clarity.

In subsection (f), the words ''accomplished in a manner which is'', ''the accomplishment in the . . . of additional'', and ''levels'' are omitted as surplus.

In subsection (g), the words ''after April 1, 1990'' are omitted as executed. The words ''betwen [sic] Washington, D.C., and Boston, Massachusetts'' are omitted as surplus. The words ''or between the main line and Atlantic City'' are substituted for ''on the feeder line referred to in section 854(a)(1)(B) of this title'' for clarity. The text of 45:431(k)(2) is omitted as executed.

In subsection (h), the text of 45:853(1)(E) (1st–4th sentences) and the word ''Thereafter'' are omitted as executed. The words ''carries out'' are substituted for ''achieves the service goals specified in'' for consistency in this section.

In subsection (i), the words ''rolling stock and related'', ''designed to be'', ''set forth'', and ''specified'' are omitted as surplus. The text of 45:853(5) (last sentence words after ''such equipment'') is omitted as obsolete.

In subsection (j)(1), the words ''Within 6 months after May 30, 1980, the Secretary shall develop plans'' and the text of 45:853(3)(B)(v) are omitted as executed. The words ''rail lines'' are substituted for ''lines'' for clarity and consistency in this chapter. The words ''Washington'' and ''on such terms and conditions as the parties may agree'' are omitted as surplus.

In subsection (j)(2), the words ''including the provision of service use of tracks and facilities as provided in such application'' are omitted as surplus.

In subsection (j)(3), the words ''other parties'' are substituted for ''involved rail freight carriers'' to eliminate unnecessary words. The words ''conditions and'' are omitted as surplus.

In subsection (k)(1), before clause (A), the words ''take all steps necessary to'' are omitted as surplus. In clause (A), the words ''all'', ''implementation of'', and ''under this subchapter'' are omitted as surplus. Clause (B) is substituted for 45:854(c)(2) to eliminate surplus and obsolete words.

REFERENCES IN TEXT

Section 703(1)(E) of the Railroad Revitalization and Regulatory Reform Act of 1976, referred to in subsecs. (e) and (f), is section 703(1)(E) of Pub. L. 94–210, which was classified to section 853(1)(E) of Title 45, Railroads, and was repealed and reenacted as subsec. (h) of this section by Pub. L. 103–272, §§1(e), 7(b), July 5, 1994, 108 Stat. 932, 1379.

AMENDMENTS

1997—Pub. L. 105–134 redesignated subsec. (b) as (a) and subsecs. (e) to (m) as (b) to (j), respectively, in subsec. (j) struck out ''(m)'' after ''This subsection'', and struck out former subsecs. (a), (c), and (d) which related to Northeast Corridor improvement plan, cost sharing for nonoperational facilities, and passenger radio mobile telephone service, respectively.

1996—Subsec. (m). Pub. L. 104–205 added subsec. (m).

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24315, 24904, 24909 of this title; title 40 section 819.

[§ 24903. Repealed. Pub. L. 105–134, title IV, § 405(a), Dec. 2, 1997, 111 Stat. 2586]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 933; Pub. L. 104–287, §5(48), Oct. 11, 1996, 110 Stat. 3393, related to program master plan for Boston-New York main line.

§ 24904. General authority

(a) GENERAL.—To carry out this chapter and the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.), Amtrak may—

(1) acquire, maintain, and dispose of any interest in property used to provide improved high-speed rail transportation under section 24902 of this title;

(2) acquire, by condemnation or otherwise, any interest in real property that Amtrak considers necessary to carry out the goals of section 24902;

(3) provide for rail freight, intercity rail passenger, and commuter rail passenger transportation over property acquired under this section;

(4) improve rail rights of way between Boston, Massachusetts, and the District of Columbia (including the route through Springfield, Massachusetts, and routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor main line) to achieve the goals of section 24902 of providing improved high-speed rail passenger transportation between Boston, Massachusetts, and the District of Columbia, and intermediate intercity markets;

(5) acquire, build, improve, and install passenger stations, communications and electric power facilities and equipment, public and private highway and pedestrian crossings, and other facilities and equipment necessary to provide improved high-speed rail passenger transportation over rights of way improved under clause (4) of this subsection;

(6) make agreements with other carriers and commuter authorities to grant, acquire, or make arrangements for rail freight or commuter rail passenger transportation over, rights of way and facilities acquired under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.); and

(7) appoint a general manager of the Northeast Corridor improvement program.

(b) COMPENSATORY AGREEMENTS.—Rail freight and commuter rail passenger transportation provided under subsection (a)(3) of this section shall be provided under compensatory agreements with the responsible carriers.

(c) COMPENSATION FOR TRANSPORTATION OVER CERTAIN RIGHTS OF WAY AND FACILITIES.—(1) An agreement under subsection (a)(6) of this section shall provide for reasonable reimbursement of costs but may not cross-subsidize intercity rail passenger, commuter rail passenger, and rail freight transportation.

(2) If the parties do not agree, the Interstate Commerce Commission shall order that the transportation continue over facilities acquired under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and the Railroad Revi-

talization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.) and shall determine compensation (without allowing cross-subsidization between intercity rail passenger and rail freight transportation) for the transportation not later than 120 days after the dispute is submitted. The Commission shall assign to a rail freight carrier obtaining transportation under this subsection the costs Amtrak incurs only for the benefit of the carrier, plus a proportionate share of all other costs of providing transportation under this paragraph incurred for the common benefit of Amtrak and the carrier. The proportionate share shall be based on relative measures of volume of car operations, tonnage, or other factors that reasonably reflect the relative use of rail property covered by this subsection.

(3) This subsection does not prevent the parties from making an agreement under subsection (a)(6) of this section after the Commission makes a decision under this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 934; Pub. L. 103–429, § 6(22), Oct. 31, 1994, 108 Stat. 4380; Pub. L. 105–134, title IV, § 405(b)(2), Dec. 2, 1997, 111 Stat. 2586.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24904(a) (words before (1)).	45:851(a) (words before (1)).	Feb. 5, 1976, Pub. L. 94–210, § 701(a)(1), (3)–(8), 90 Stat. 119.
24904(a)(1) ..	45:851(a)(1).	
	45:855(b).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, § 705(b); added May 30, 1980, Pub. L. 96–254, § 206(a), 94 Stat. 413; Jan. 14, 1983, Pub. L. 97–468, § 301(5)(B), 96 Stat. 2550.
24904(a)(2) ..	45:854(h).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, § 704(h); added May 30, 1980, Pub. L. 96–254, § 204(b), 94 Stat. 411.
	45:855(b).	
24904(a)(3) ..	45:851(a)(3) (less proviso).	
24904(a)(4) ..	45:851(a)(4).	
24904(a)(5) ..	45:851(a)(5).	
24904(a)(6) ..	45:562(a)(2) (1st sentence).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 402(a)(2); added Feb. 5, 1976, Pub. L. 94–210, § 706(a), 90 Stat. 123; May 30, 1980, Pub. L. 96–254, § 206(a), 94 Stat. 412; Apr. 7, 1986, Pub. L. 99–272, § 4017(b)(2)–(5), 100 Stat. 111.
	45:851(a)(6) (words before 8th comma).	
24904(a)(7) ..	45:851(a)(7).	
24904(a)(8) ..	45:851(a)(8).	
24904(b)	45:851(a)(3) (proviso).	
24904(c)(1) ..	45:851(a)(6) (words after 8th comma).	
24904(c)(2) ..	45:562(a)(2) (2d–5th sentences).	
24904(c)(3) ..	45:562(a)(2) (last sentence).	

In subsection (a), before clause (1), the words ''the purposes of'' are omitted as surplus. The words ''this part'' are substituted for ''this subchapter, the Rail Passenger Service Act [45 U.S.C. 501 et seq.]'' for clarity because subchapter III of chapter 17 of title 45, United States Code, and the Rail Passenger Service Act make up part C of subtitle V of the revised title. In clause (1), the words ''by purchase, lease, exchange, gift, or otherwise, and to hold . . . sell, lease, or otherwise'', ''real or personal'', and ''which is necessary or'' are omitted as surplus. The words ''to provide'' are substituted for ''establishing and maintaining'' for consistency in this chapter. In clause (2), the words ''for the United States, by lease, purchase, condemnation, or otherwise'' and ''(including lands, easements, and rights-of-way, and any other property interests, including contract rights) are omitted as surplus. In clause (3), the words ''the continuous operation and maintenance of'' are omitted as surplus. In clause (4), the words ''Washington'' and ''at its option'' are omitted as surplus. In clause (5), the words ''other safety facilities or equipment . . . any'' and ''which it determines are'' are omitted as surplus. In clause (6), the words ''Notwithstanding any other provision of this chapter'', ''tracks, rights-of-way and other'', and ''by the Corporation'' in 45:562(a)(2) (1st sentence) and ''other railroads'' and ''trackage rights, contract services, and other appropriate'' in 45:851(a)(6) are omitted as surplus. In clause (7), the words ''qualified individual to serve as the'' are omitted as surplus. In clause (8), the words ''on a basis which is consistent with, and'' are omitted as surplus.

In subsection (c)(1), the words ''shall provide for'' are substituted for ''to be on such terms and conditions as are necessary to'' to eliminate unnecessary words. The word ''reasonable'' is substituted for ''on an equitable and fair basis'' for consistency in the revised title.

In subsection (c)(2), the words ''If the parties do not'' are substituted for ''In the event of a failure to'' for clarity. The words ''to be provided'', ''consistent with equitable and fair compensation principles'', ''proper amount of'', ''the provision of'', and ''the date of'' are omitted as surplus.

In subsection (c)(3), the words ''either before or'' are omitted as surplus because the National Railroad Passenger Corporation may make agreements on arrangements for rail freight or commuter rail transportation under subsection (a)(6) of this section and this subsection applies only when there is no agreement.

PUB. L. 103–429

This amends 49:24904(a)(2) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 934).

REFERENCES IN TEXT

The Regional Rail Reorganization Act of 1973, referred to in subsecs. (a) and (c)(2), is Pub. L. 93–236, Jan. 2, 1974, 87 Stat. 985, as amended, which is classified principally to chapter 16 (§ 701 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 45 and Tables.

The Railroad Revitalization and Regulatory Reform Act of 1976, referred to in subsecs. (a)(6) and (c)(2), is Pub. L. 94–210, Feb. 5, 1976, 90 Stat. 31, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 45 and Tables.

AMENDMENTS

1997—Subsec. (a)(6) to (8). Pub. L. 105–134 inserted ''and'' at end of par. (6), substituted a period for ''; and'' at end of par. (7), and struck out par. (8) which read as follows: ''make agreements with telecommunications common carriers, subject to the Communications Act of 1934 (47 U.S.C. 151 et seq.), to continue existing, and establish new and improved, passenger radio mobile telephone service in the high-speed rail passenger transportation area specified in section 24902(a)(1) and (2).''

1994—Subsec. (a)(2). Pub. L. 103–429 inserted '', by condemnation or otherwise,'' after ''acquire''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24905, 24907 of this title.

§ 24905. Coordination board and safety committee

(a) NORTHEAST CORRIDOR COORDINATION BOARD.—(1) The Northeast Corridor Coordination Board is composed of the following members:

(A) one individual from each commuter authority (as defined in section 1135(a) of the Omnibus Budget Reconciliation Act of 1981 (45 U.S.C. 1104)) that provides or makes a contract to provide commuter rail passenger transportation over the main line of the Northeast Corridor.

(B) 2 individuals selected by Amtrak.

(C) one individual selected by the Consolidated Rail Corporation.

(2) The Board shall recommend to Amtrak—

(A) policies that ensure equitable access to the Northeast Corridor, considering the need for equitable access by commuter and intercity rail passenger transportation and the requirements of section 24308(c) of this title; and

(B) equitable policies for the Northeast Corridor related to—

(i) dispatching;

(ii) public information;

(iii) maintaining equipment and facilities;

(iv) major capital facility investments; and

(v) harmonizing equipment acquisitions, rates, and schedules.

(3) The Board may recommend to the board of directors and President of Amtrak action necessary to resolve differences on providing transportation, except for facilities and transportation matters under section 24308(a) or 24904(a)(5) and (c) of this title.

(b) NORTHEAST CORRIDOR SAFETY COMMITTEE.—(1) The Northeast Corridor Safety Committee is composed of members appointed by the Secretary of Transportation. The members shall be representatives of—

(A) the Secretary;

(B) Amtrak;

(C) freight carriers operating more than 150,000 train miles a year on the main line of the Northeast Corridor;

(D) commuter agencies;

(E) rail passengers;

(F) rail labor; and

(G) other individuals and organizations the Secretary decides have a significant interest in rail safety.

(2) The Secretary shall consult with the Committee about safety improvements on the Northeast Corridor main line. The Committee shall meet at least once every 2 years to consider safety matters on the main line.

(3) At the beginning of the first session of each Congress, the Secretary shall submit a report to Congress on the status of efforts to improve safety on the Northeast Corridor main line. The report shall include the safety recommendations of the Committee and the comments of the Secretary on those recommendations.

(4) The Committee shall cease to exist on January 1, 1999, or on another date the Secretary decides is appropriate. The Secretary shall notify Congress in writing of a decision to terminate the Committee on another date.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 935.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24905(a)(1) ..	45:585(c).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 505(c); added Jan. 14, 1983, Pub. L. 97–468, § 508(2), 96 Stat. 2554.
24905(a)(2) ..	45:585(a).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 505(a), (b); added Aug. 13, 1981, Pub. L. 97–35, § 1137, 95 Stat. 650; Jan. 14, 1983, Pub. L. 97–468, § 508(1), 96 Stat. 2554.
24905(a)(3) ..	45:585(b).	
24905(b)	45:431 (note).	June 22, 1988, Pub. L. 100–342, § 11, 102 Stat. 629; Sept. 3, 1992, Pub. L. 102–365, § 18, 106 Stat. 982.

In subsection (a)(2), before clause (A), the words ''develop and'' are omitted as surplus. In clause (B)(v), the word ''rates'' is substituted for ''fares, tariffs'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(3), the words ''of opinions'' and ''(among or between the Corporation, Amtrak Commuter, other railroads, commuter authorities, and other State, local, and regional agencies responsible for the provision of commuter rail, rapid rail, or rail freight service), with respect to all matters'' are omitted as surplus. The words ''for facilities and transportation matters under'' are substituted for ''those conferred on the Commission in'' for clarity.

In subsection (b)(1), the words ''Within 30 days after the date of enactment of this Act . . . shall establish'' are omitted as executed.

In subsection (b)(3), the words ''each Congress'' are substituted for ''the 103rd Congress, and biennially thereafter'' to eliminate unnecessary words. The words ''pursuant to the provisions of this section'' are omitted as unnecessary.

§ 24906. Eliminating highway at-grade crossings

(a) PLAN.—In consultation with the States on the main line of the Northeast Corridor, the Secretary of Transportation shall develop a plan not later than September 30, 1993, to eliminate all highway at-grade crossings of the main line by not later than December 31, 1997. The plan may provide that eliminating a crossing is not required if—

(1) impracticable or unnecessary; and

(2) using the crossing is consistent with conditions the Secretary considers appropriate to ensure safety.

(b) AMTRAK'S SHARE OF COSTS.—Amtrak shall pay 20 percent of the cost of eliminating each highway at-grade crossing under the plan.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 936.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24906(a)	45:650(a), (b).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, § 811; added Oct. 27, 1992, Pub. L. 102–533, § 2, 106 Stat. 3515.
24906(b)	45:650(c).	

§ 24907. Note and mortgage

(a) GENERAL AUTHORITY.—To secure amounts expended by the United States Government to acquire and improve rail property designated under section 206(c)(1)(C) and (D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(C) and (D)), the Secretary of Transportation may obtain a note of indebtedness from, and make a mortgage agreement with, Amtrak to establish a mortgage lien on the property for the Government. The note and mortgage may not supersede section 24904 of this title.

(b) EXEMPTIONS FROM LAWS AND REGULATIONS.—The note and agreement under subsection (a) of this section, and a transaction related to the note or agreement, are exempt from any United States, State, or local law or regulation that regulates securities or the issuance of securities. The note, agreement, or transaction under this section has the same immunities from other laws that section 601 of the Act (45 U.S.C. 791) gives to transactions that comply with or carry out the final system plan. The transfer of rail property because of the note, agreement, or transaction has the same exemptions, privileges, and immunities that the Act (45 U.S.C. 701 et seq.) gives to a transfer ordered or approved by the special court under section 303(b) of the Act (45 U.S.C. 743(b)).

(c) IMMUNITY FROM LIABILITY AND INDEMNIFICATION.—Amtrak, its board of directors, and its individual directors are not liable because Amtrak has given or issued the note or agreement to the Government under subsection (a) of this section. Immunity granted under this subsection also applies to a transaction related to the note or agreement. The Government shall indemnify Amtrak, its board, and individual directors against costs and expenses actually and reasonably incurred in defending a civil action testing the validity of the note, agreement, or transaction.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 936.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24907(a)	45:854(e).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, § 704(e)–(g); added Oct. 19, 1976, Pub. L. 94–555, § 217(c), 90 Stat. 2627.
24907(b)	45:854(f).	
24907(c)	45:854(g).	

In subsection (a), the words ''In order . . . protect and'', ''securing such expenditure'', ''infringe upon or'', and ''the authority conferred upon the National Railroad Passenger Corporation by'' are omitted as surplus.

In subsections (b) and (c), the words ''note'' and ''agreement'' are substituted for ''agreement, security, or obligation'' for consistency because the Secretary of Transportation gets only notes and mortgage agreements under the source provisions restated in subsection (a) of this section.

In subsection (b), the words ''obtained by the Secretary'' and ''the provisions of subtitle IV of title 49, the Securities Act of 1933 (15 U.S.C. 77a et seq.), and . . . other'' are omitted as surplus. The words ''has the same'' are substituted for ''shall enjoy all of the'' for clarity. The words ''conveyance or'' are omitted, and the word ''transfer'' is substituted for ''conveyances'', for consistency in this subtitle. The words ''(including section 303(e) thereof [45 U.S.C. 743(e)])'' are omitted as surplus. The words ''section 303(b)'' are substituted for ''section 306(b)'' to correct a mistake in section 217(c) of the Rail Transportation Improvement Act (Public Law 94–555, 90 Stat. 2628).

In subsection (c), the words ''to any party for any damages, or in any other matter'' are omitted as surplus. The word ''because'' is substituted for 'by reason of the fact that'' to eliminate unnecessary words. The words ''related to the note or agreement'' are substituted for ''in connection with'' for clarity. The words ''all'' and ''(including fees of accountants, experts, and attorneys)'' are omitted as surplus. The words ''a civil action'' are substituted for ''any litigation'' for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''legal'' and ''given, issued, or entered into'' are omitted as surplus.

REFERENCES IN TEXT

The Regional Rail Reorganization Act of 1973, referred to in subsecs. (a) and (b), is Pub. L. 93–236, Jan. 2, 1974, 87 Stat. 985, as amended, which is classified principally to chapter 16 (§ 701 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 45 and Tables.

ABOLITION OF SPECIAL COURT, REGIONAL RAIL REORGANIZATION ACT OF 1973, AND TRANSFER OF FUNCTIONS

Special court abolished and all jurisdiction and functions transferred to United States District Court for District of Columbia, see section 719(b)(2) of Title 45, Railroads.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 45 section 719.

§ 24908. Transfer taxes and levies and recording charges

A transfer of an interest in rail property under this chapter is exempt from a tax or levy related to the transfer that is imposed by the United States Government, a State, or a political subdivision of a State. On payment of the appropriate and generally applicable charge for the service performed, a transferee or transferor may record an instrument and, consistent with the final system plan, the release or removal of a pre-existing lien or encumbrance of record related to the interest transferred.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 937.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24908	45:743(e) (words ''title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 [45 U.S.C. 851 et seq.] or of'').	Jan. 2, 1974, Pub. L. 93–236, 87 Stat. 985, § 303(e) (words ''title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 or of''); added Feb. 5, 1976, Pub. L. 94–210, § 601(d), 90 Stat. 84; Sept. 30, 1976, Pub. L. 94–436, § 5 (related to title VII), 90 Stat. 1399.

The words ''or conveyances'', ''(whether real, personal, or mixed)'', ''which are made at any time'', ''the purposes of'', ''imposts'', ''or on the recording of deeds, bills of sale, liens, encumbrances, or other instruments

evidencing, effectuating, or incident to any such transfers or conveyances, whether imposed on the transferor or on the transferee'', ''now or hereafter'', ''to compensate . . . the cost of'', ''such deeds, bills of sale, liens, encumbrances, or other'', and ''the designations and applicable principles in'' are omitted as surplus.

§ 24909. Authorization of appropriations

(a) GENERAL.—(1) Not more than $2,313,000,000 may be appropriated to the Secretary of Transportation to achieve the goals of section 24902(a)(1)[1] of this title. From this amount, the following amounts shall be expended by Amtrak:

(A) at least $27,000,000 for equipment modification and replacement that a State or a local or regional transportation authority must bear because of the electrification conversion system of the Northeast Corridor under this chapter.

(B) $30,000,000—

(i) to improve the main line track between the Northeast Corridor main line and Atlantic City, New Jersey, to ensure that the track, consistent with a plan New Jersey developed in consultation with Amtrak to provide rail passenger transportation between the Northeast Corridor main line and Atlantic City, New Jersey, would be of sufficient quality to allow safe rail passenger transportation at a minimum of 79 miles an hour not later than September 30, 1985; and

(ii) to promote rail passenger use of the track.

(C) necessary amounts to—

(i) develop Union Station in the District of Columbia;

(ii) install 189 track-miles, and renew 133 track-miles, of concrete ties with continuously welded rail between the District of Columbia and New York, New York;

(iii) install reverse signaling between Philadelphia, Pennsylvania, and Morrisville, Pennsylvania, on numbers 2 and 3 track;

(iv) restore ditch drainage in concrete tie locations between the District of Columbia and New York, New York;

(v) undercut 83 track-miles between the District of Columbia and New York, New York;

(vi) rehabilitate bridges between the District of Columbia and New York, New York (including Hi line);

(vii) develop a maintenance of way equipment repair facility between the District of Columbia and New York, New York, and build maintenance of way bases at Philadelphia, Pennsylvania, Sunnyside, New York, and Cedar Hill, Connecticut;

(viii) stabilize the roadbed between the District of Columbia and New York, New York;

(ix) automate the Bush River Drawbridge at milepost 72.14;

(x) improve the New York Service Facility to develop rolling stock repair capability;

(xi) install a rail car washer facility at Philadelphia, Pennsylvania;

(xii) restore storage tracks and buildings at the Washington Service Facility;

(xiii) install centralized traffic control from Landlith, Delaware, to Philadelphia, Pennsylvania;

(xiv) improve track, including high speed surfacing, ballast cleaning, and associated equipment repair and material distribution;

(xv) rehabilitate interlockings between the District of Columbia and New York, New York;

(xvi) paint the Connecticut River, Groton, and Pelham Bay bridges;

(xvii) provide additional catenary renewal and power supply upgrading between the District of Columbia and New York, New York;

(xviii) rehabilitate structural, electrical, and mechanical systems at the 30th Street Station in Philadelphia, Pennsylvania;

(xix) install evacuation and fire protection facilities in tunnels in New York, New York;

(xx) improve the communication and signal systems between Wilmington, Delaware, and Boston, Massachusetts, on the Northeast Corridor main line, and between Philadelphia, Pennsylvania, and Harrisburg, Pennsylvania, on the Harrisburg Line;

(xxi) improve the electric traction systems between Wilmington, Delaware, and Newark, New Jersey;

(xxii) install baggage rack restraints, seat back guards, and seat lock devices on 348 passenger cars operating in the Northeast Corridor;

(xxiii) install 44 event recorders and 10 electronic warning devices on locomotives operating within the Northeast Corridor; and

(xxiv) acquire cab signal test boxes and install 9 wayside loop code transmitters for use within the Northeast Corridor.

(2) The following additional amounts may be appropriated to the Secretary for expenditure by Amtrak:

(A) not more than $150,000,000 to achieve the goal of section 24902(a)(3)[1] of this title.

(B) not more than $120,000,000 to acquire interests in property in the Northeast Corridor.

(C) not more than $650,000 to develop and use mobile radio frequencies for passenger radio mobile telephone service on high-speed rail passenger transportation.

(D) not more than $20,000,000 to acquire and improve interests in rail property designated under section 206(c)(1)(D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(D)).

(E) not more than $37,000,000 to carry out section 24902(a)(7) and (j)[1] of this title.

(b) EMERGENCY MAINTENANCE.—Not more than $25,000,000 of the amount appropriated under the Act of February 28, 1975 (Public Law 94–6, 89 Stat. 11), may be used by Amtrak for emergency maintenance on rail property designated under section 206(c)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(C)).

(c) PRIORITY IN USING CERTAIN AMOUNTS.—Amounts appropriated under subsection (a)(2)(B) and (D) of this section shall be used first to repay, with interest, obligations guaranteed under section 602 of the Rail Passenger Service

[1] See References in Text note below.

Act, if the proceeds of those obligations were used to pay the expenses of acquiring interests in property referred to in subsection (a)(2)(B) and (D).

(d) PROHIBITION ON SUBSIDIZING COMMUTER AND FREIGHT OPERATING LOSSES.—Amounts appropriated under this section may not be used to subsidize operating losses of commuter rail or rail freight transportation.

(e) SUBSTITUTING AND DEFERRING CERTAIN IMPROVEMENTS.—(1) A project for which amounts are authorized under subsection (a)(1)(C) of this section is a part of the Northeast Corridor improvement program and is not a substitute for improvements specified in the document ''Corridor Master Plan II, NECIP Restructured Program'' of January, 1982. However, Amtrak may defer the project to carry out the improvement and rehabilitation for which amounts are authorized under subsection (a)(1)(B) of this section. The total cost of the project that Amtrak defers may not be substantially more than the amount Amtrak is required to expend or reserve under subsection (a)(1)(B).

(2) Section 24902 of this title is deemed not to be fulfilled until the projects under subsection (a)(1)(C) of this section are completed.

(f) AVAILABILITY OF AMOUNTS.—Amounts appropriated under subsection (a)(1) and (2)(A) and (C)–(E) of this section remain available until expended.

(g) AUTHORIZATIONS INCREASED BY PRIOR YEAR DEFICIENCIES.—An amount greater than that authorized for a fiscal year may be appropriated to the extent that the amount appropriated for any prior fiscal year is less than the amount authorized for that year.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 937.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
24909(a)(1) ..	45:854(a) (1st sentence).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §704(a) (1st sentence); added Aug. 13, 1981, Pub. L. 97–35, §1193(1), 95 Stat. 701.
	45:854(a) (2d sentence cl. (1) (less availability)).	Feb. 5, 1976, Pub. L. 94–210, §704(a) (2d sentence), 90 Stat. 122; Oct. 19, 1976, Pub. L. 94–555, §217(a), (b), 90 Stat. 2627; Oct. 5, 1978, Pub. L. 95–421, §9, 92 Stat. 928; May 30, 1980, Pub. L. 96–254, §204(a), 94 Stat. 411; Jan. 14, 1983, Pub. L. 97–468, §301(2), 96 Stat. 2548; June 22, 1988, Pub. L. 100–342, §6, 102 Stat. 627.
	45:855(b).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §705(b); added May 30, 1980, Pub. L. 96–254, §206(a), 94 Stat. 413; Jan. 14, 1983, Pub. L. 97–468, §301(5)(B), 96 Stat. 2550.
24909(a)(2)(A).	45:854(a) (2d sentence cl. (2) (less availability)).	
	45:855(b).	
24909(a)(2)(B)–(E).	45:854(a) (2d sentence cls. (3)(A)–(D) (1st sentence), (4)) (as 2d sentence cls. (3)(A)–(D) (1st sentence), (4) relate to other than availability).	
	45:855(b).	
24909(b)	45:854(d).	Feb. 5, 1976, Pub. L. 94–210, §704(d), 90 Stat. 123.
	45:855(b).	
24909(c)	45:854(a) (2d sentence cl. (3)(D) (last sentence)).	
24909(d)	45:854(b)(1) (related to 854).	Feb. 5, 1976, Pub. L. 94–210, §704(b)(1) (related to §704), 90 Stat. 123; Jan. 14, 1983, Pub. L. 97–468, §301(4)(A), 96 Stat. 2549.
24909(e)	45:854(b)(2).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §704(b)(2); added Jan. 14, 1983, Pub. L. 97–468, §301(4)(B), 96 Stat. 2549.
	45:855(b).	
24909(f)	45:854(a) (2d sentence cls. (1)–(3)(D) (1st sentence), (4)) (as 2d sentence cls. (1)–(3)(D) (1st sentence), (4) relate to availability).	
24909(g)	45:854(a) (3d sentence).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §704(a) (3d sentence); added Aug. 13, 1981, Pub. L. 97–35, §1193(2), 95 Stat. 702.
	45:854(a) (4th–last sentences).	Feb. 5, 1976, Pub. L. 94–210, 90 Stat. 31, §704(a) (4th–last sentences); added Jan. 14, 1983, Pub. L. 97–468, §301(3), 96 Stat. 2549.

In subsections (a) and (f), the text of 45:854(a) (2d sentence cl. (3)(A)) is omitted as executed.

In subsection (a)(1), before clause (A), the text of 45:854(a) (1st sentence) is omitted as surplus because of section 24902(a) of the revised title. In clause (B)(i), the words ''if the National Railroad Passenger Corporation receives notification on or before June 1, 1983, from . . . that such State has approved'' and ''and if such Corporation determines that such plan is feasible'' are omitted as executed. The words ''rehabilitation and other . . . (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service)'' are omitted as surplus. In clause (C), before subclause (i), the words ''with respect to the main line of the Northeast Corridor'' are omitted as surplus. In subclauses (i), (ii), (iv)–(viii), (xv), and (xvii), the word ''Washington'' is omitted as surplus. In subclause (xx), the words ''at locations'' are omitted as surplus.

In subsection (a)(2)(C), the words ''passenger radio mobile telephone service on high-speed rail passenger transportation'' are substituted for ''high-speed rail passenger rail telephone service'' for consistency in this chapter.

In subsection (a)(2)(D), the word ''rail'' is added for consistency in the revised title.

In subsection (b), the words ''After the conveyance of rail properties, pursuant to section 303(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)) and section 851(b) of this title'' are omitted as executed. The words ''remain available to'' and ''the purpose of performing'' are omitted as surplus.

In subsection (c), the words ''that portion of . . . issued by the National Railroad Passenger Corporation and'' are omitted as surplus.

In subsection (e)(1), the words ''to be appropriated'', ''undertaken or viewed as'', ''entitled'', and ''prepared for the United States Department of Transportation, Federal Railroad Administration, Northeast Corridor Improvement Project, in cooperation with the Federal Railroad Administration and the National Railroad Passenger Corporation (Amtrak), by Deleuw, Cather/Parsons, NECIP architect/engineer'' are omitted as surplus. The words ''for which amounts are authorized under'' are substituted for ''described in'' for clarity. The words ''for expenditure'' are omitted as surplus.

In subsection (g), the text of 45:854(a) (3d, 5th, and last sentences) is omitted as executed. The words ''An

amount greater than that authorized for a fiscal year'' are substituted for ''Funds . . . in excess of limitations imposed under the preceding sentence with respect to a fiscal year, or for fiscal years after the fiscal year ending September 30, 1983'' to eliminate unnecessary and obsolete words. The words ''under this section'' are omitted as surplus. The words ''amount authorized'' are substituted for ''limitation under such sentence'' for consistency.

REFERENCES IN TEXT

Section 24902 of this title, referred to in subsecs. (a)(1), (2)(A), (E), was amended by Pub. L. 105–134, title IV, §405(b)(1), Dec. 2, 1997, 111 Stat. 2586, and, as so amended, subsec. (a) of that section was repealed and subsecs. (b), (j), and (m) were redesignated (a), (g), and (j), respectively.

Act of February 28, 1975 (Public Law 94–6, 89 Stat. 11), referred to in subsec. (b), provided appropriations for interim operating assistance for Federal Railroad Administration of Department of Transportation in chapter II which is not classified to the Code.

Section 602 of the Rail Passenger Service Act, referred to in subsec. (c), was classified to section 602 of Title 45, Railroads, prior to repeal by Pub. L. 102–533, §7(c), Oct. 27, 1992, 106 Stat. 3519.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 section 819.

PART D—HIGH-SPEED RAIL

PRIOR PROVISIONS

A prior part D, consisting of chapter 261, was redesignated part E of this subtitle by Pub. L. 103–440, title I, §103(a)(1), Nov. 2, 1994, 108 Stat. 4616.

CHAPTER 261—HIGH-SPEED RAIL ASSISTANCE

Sec.
26101. Corridor planning.
26102. High-speed rail technology improvements.
26103. Safety regulations.
26104. Authorization of appropriations.
26105. Definitions.

PRIOR PROVISIONS

A prior chapter 261, consisting of sections 26101 and 26102, was renumbered chapter 281 of this title by Pub. L. 103–440, title I, §103(a)(1), Nov. 2, 1994, 108 Stat. 4616.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 24301 of this title.

§ 26101. Corridor planning

(a) CORRIDOR PLANNING ASSISTANCE.—(1) The Secretary may provide under this section financial assistance to a public agency or group of public agencies for corridor planning for up to 50 percent of the publicly financed costs associated with eligible activities.

(2) No less than 20 percent of the publicly financed costs associated with eligible activities shall come from State and local sources, which State and local sources may not include funds from any Federal program.

(b) ELIGIBLE ACTIVITIES.—(1) A corridor planning activity is eligible for financial assistance under subsection (a) if the Secretary determines that it is necessary to establish appropriate engineering, operational, financial, environmental, or socioeconomic projections for the establishment of high-speed rail service in the corridor and that it leads toward development of a prudent financial and institutional plan for implementation of specific high-speed rail improvements. Eligible corridor planning activities include—

(A) environmental assessments;

(B) feasibility studies emphasizing commercial technology improvements or applications;

(C) economic analyses, including ridership, revenue, and operating expense forecasting;

(D) assessing the impact on rail employment of developing high-speed rail corridors;

(E) assessing community economic impacts;

(F) coordination with State and metropolitan area transportation planning and corridor planning with other States;

(G) operational planning;

(H) route selection analyses and purchase of rights-of-way for proposed high-speed rail service;

(I) preliminary engineering and design;

(J) identification of specific improvements to a corridor, including electrification, line straightening and other right-of-way improvements, bridge rehabilitation and replacement, use of advanced locomotives and rolling stock, ticketing, coordination with other modes of transportation, parking and other means of passenger access, track, signal, station, and other capital work, and use of intermodal terminals;

(K) preparation of financing plans and prospectuses; and

(L) creation of public/private partnerships.

(2) No financial assistance shall be provided under this section for corridor planning with respect to the main line of the Northeast Corridor, between Washington, District of Columbia, and Boston, Massachusetts.

(c) CRITERIA FOR DETERMINING FINANCIAL ASSISTANCE.—Selection by the Secretary of recipients of financial assistance under this section shall be based on such criteria as the Secretary considers appropriate, including—

(1) the relationship of the corridor to the Secretary's national high-speed ground transportation policy;

(2) the extent to which the proposed planning focuses on systems which will achieve sustained speeds of 125 mph or greater;

(3) the integration of the corridor into metropolitan area and statewide transportation planning;

(4) the potential interconnection of the corridor with other parts of the Nation's transportation system, including the interconnection with other countries;

(5) the anticipated effect of the corridor on the congestion of other modes of transportation;

(6) whether the work to be funded will aid the efforts of State and local governments to comply with the Clean Air Act (42 U.S.C. 7401 et seq.);

(7) the past and proposed financial commitments and other support of State and local governments and the private sector to the proposed high-speed rail program, including the acquisition of rolling stock;

(8) the estimated level of ridership;

(9) the estimated capital cost of corridor improvements, including the cost of closing, im-

proving, or separating highway-rail grade crossings;

(10) rail transportation employment impacts;

(11) community economic impacts;

(12) the extent to which the projected revenues of the proposed high-speed rail service, along with any financial commitments of State or local governments and the private sector, are expected to cover capital costs and operating and maintenance expenses;

(13) whether a specific route has been selected, specific improvements identified, and capacity studies completed; and

(14) whether the corridor has been designated as a high-speed rail corridor by the Secretary.

(Added Pub. L. 103–440, title I, § 103(a)(2), Nov. 2, 1994, 108 Stat. 4616.)

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (c)(6), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 26101 was renumbered section 28101 of this title.

CONGRESSIONAL FINDINGS; PURPOSE

Section 102 of title I of Pub. L. 103–440 provided that: ''(a) FINDINGS.—The Congress finds that—

''(1) high-speed rail offers safe and efficient transportation in certain densely traveled corridors linking major metropolitan areas in the United States;

''(2) high-speed rail may have environmental advantages over certain other forms of intercity transportation;

''(3) Amtrak's Metroliner service between Washington, District of Columbia, and New York, New York, the United States premier high-speed rail service, has shown that Americans will use high-speed rail when that transportation option is available;

''(4) new high-speed rail service should not receive Federal subsidies for operating and maintenance expenses;

''(5) State and local governments should take the prime responsibility for the development and implementation of high-speed rail service;

''(6) the private sector should participate in funding the development of high-speed rail systems;

''(7) in some intercity corridors, Federal planning assistance may be required to supplement the funding commitments of State and local governments and the private sector to ensure the adequate planning, including reasonable estimates of the costs and benefits, of high-speed rail systems;

''(8) improvement of existing technologies can facilitate the development of high-speed rail systems in the United States; and

''(9) Federal assistance is required for the improvement, adaptation, and integration of proven technologies for commercial application in high-speed rail service in the United States.

''(b) PURPOSE.—The purpose of this title [see Short Title of 1994 Amendment note set out under section 20101 of this title] is to encourage farsighted State, local, and private efforts in the analysis and planning for high-speed rail systems in appropriate intercity corridors.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 26104 of this title.

§ 26102. High-speed rail technology improvements

(a) AUTHORITY.—The Secretary may undertake activities for the improvement, adaptation, and integration of proven technologies for commercial application in high-speed rail service in the United States.

(b) ELIGIBLE RECIPIENTS.—In carrying out activities authorized by subsection (a), the Secretary may provide financial assistance to any United States private business, educational institution located in the United States, State or local government or public authority, or agency of the Federal Government.

(c) CONSULTATION WITH OTHER AGENCIES.—In carrying out activities authorized by subsection (a), the Secretary shall consult with such other governmental agencies as may be necessary concerning the availability of appropriate technologies for commercial application in high-speed rail service in the United States.

(Added Pub. L. 103–440, title I, § 103(a)(2), Nov. 2, 1994, 108 Stat. 4617.)

PRIOR PROVISIONS

A prior section 26102 was renumbered section 28102 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 26104 of this title.

§ 26103. Safety regulations

The Secretary shall promulgate such safety regulations as may be necessary for high-speed rail services.

(Added Pub. L. 103–440, title I, § 103(a)(2), Nov. 2, 1994, 108 Stat. 4618.)

§ 26104. Authorization of appropriations

(a) FISCAL YEAR 1995.—There are authorized to be appropriated to the Secretary $29,000,000 for fiscal year 1995, for carrying out sections 26101 and 26102 (including payment of administrative expenses related thereto).

(b) FISCAL YEAR 1996.—(1) There are authorized to be appropriated to the Secretary $40,000,000 for fiscal year 1996, for carrying out section 26101 (including payment of administrative expenses related thereto).

(2) There are authorized to be appropriated to the Secretary $30,000,000 for fiscal year 1996, for carrying out section 26102 (including payment of administrative expenses related thereto).

(c) FISCAL YEAR 1997.—(1) There are authorized to be appropriated to the Secretary $45,000,000 for fiscal year 1997, for carrying out section 26101 (including payment of administrative expenses related thereto).

(2) There are authorized to be appropriated to the Secretary $40,000,000 for fiscal year 1997, for carrying out section 26102 (including payment of administrative expenses related thereto).

(d) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.

(Added Pub. L. 103–440, title I, § 103(a)(2), Nov. 2, 1994, 108 Stat. 4618.)

§ 26105. Definitions

For purposes of this chapter—

(1) the term ''financial assistance'' includes grants, contracts, and cooperative agreements;

(2) the term ''high-speed rail'' has the meaning given such term under section 511(n) of the Railroad Revitalization and Regulatory Reform Act of 1976;

(3) the term ''publicly financed costs'' means the costs funded after April 29, 1993, by Federal, State, and local governments;

(4) the term ''Secretary'' means the Secretary of Transportation;

(5) the term ''State'' means any of the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States; and

(6) the term ''United States private business'' means a business entity organized under the laws of the United States, or of a State, and conducting substantial business operations in the United States.

(Added Pub. L. 103–440, title I, §103(a)(2), Nov. 2, 1994, 108 Stat. 4618.)

REFERENCES IN TEXT

Section 511(n) of the Railroad Revitalization and Regulatory Reform Act of 1976, referred to in par. (2), is classified to section 831(n) of Title 45, Railroads.

PART E—MISCELLANEOUS

AMENDMENTS

1994—Pub. L. 103–440, title I, §103(a)(1), Nov. 2, 1994, 108 Stat. 4616, redesignated part D of this subtitle as part E.

CHAPTER 281—LAW ENFORCEMENT

Sec.
28101. Rail police officers.
28102. Limit on certain accident or incident liability.
28103. Limitations on rail passenger transportation liability.

AMENDMENTS

1997—Pub. L. 105–134, title I, §161(b), Dec. 2, 1997, 111 Stat. 2578, added item 28103.

1994—Pub. L. 103–440, title I, §103(a)(1), (b)(2), Nov. 2, 1994, 108 Stat. 4616, 4619, renumbered chapter 261 of this title as chapter 281 and items 26101 and 26102 as 28101 and 28102, respectively.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 24301 of this title.

§ 28101. Rail police officers

Under regulations prescribed by the Secretary of Transportation, a rail police officer who is employed by a rail carrier and certified or commissioned as a police officer under the laws of a State may enforce the laws of any jurisdiction in which the rail carrier owns property, to the extent of the authority of a police officer certified or commissioned under the laws of that jurisdiction, to protect—

(1) employees, passengers, or patrons of the rail carrier;

(2) property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;

(3) property moving in interstate or foreign commerce in the possession of the rail carrier; and

(4) personnel, equipment, and material moving by rail that are vital to the national defense.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 939, §26101; renumbered §28101, Pub. L. 103–440, title I, §103(a)(1), Nov. 2, 1994, 108 Stat. 4616.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
26101	45:446.	Nov. 29, 1990, Pub. L. 101–647, §1704, 104 Stat. 4846.

The words ''to the extent of the authority of a police officer certified or commissioned under the laws of that jurisdiction'' are placed before clause (1) rather than at the end of clause (4), as in the source provision, to reflect the probable intent of Congress.

AMENDMENTS

1994—Pub. L. 103–440 renumbered section 26101 of this title as this section.

§ 28102. Limit on certain accident or incident liability

(a) GENERAL.—When a publicly financed commuter transportation authority established under Virginia law makes a contract to indemnify Amtrak for liability for operations conducted by or for the authority or to indemnify a rail carrier over whose tracks those operations are conducted, liability against Amtrak, the authority, or the carrier for all claims (including punitive damages) arising from an accident or incident in the District of Columbia related to those operations may not be more than the limits of the liability coverage the authority maintains to indemnify Amtrak or the carrier.

(b) MINIMUM REQUIRED LIABILITY COVERAGE.—A publicly financed commuter transportation authority referred to in subsection (a) of this section must maintain a total minimum liability coverage of at least $200,000,000.

(c) EFFECTIVENESS.—This section is effective only after Amtrak or a rail carrier seeking an indemnification contract under this section makes an operating agreement with a publicly financed commuter transportation authority established under Virginia law to provide access to its property for revenue transportation related to the operations of the authority.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 940, §26102; renumbered §28102, Pub. L. 103–440, title I, §103(a)(1), Nov. 2, 1994, 108 Stat. 4616.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
26102(a)	45:649(a) (1st sentence).	Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §810; added July 6, 1990, Pub. L. 101–322, §3, 104 Stat. 295.
26102(b)	45:649(a) (last sentence).	
26102(c)	45:649(b).	

In subsection (a), the words ''Notwithstanding any other provision of law'', ''whether for compensatory or'', and ''occurring'' are omitted as surplus.

In subsection (c), the words ''an indemnification contract'' are substituted for ''coverage'' for clarity.

AMENDMENTS

1994—Pub. L. 103–440 renumbered section 26102 of this title as this section.

§ 28103. Limitations on rail passenger transportation liability

(a) LIMITATIONS.—(1) Notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to damages or liability, in a claim for personal injury to a passenger, death of a passenger, or damage to property of a passenger arising from or in connection with the provision of rail passenger transportation, or from or in connection with any rail passenger transportation operations over or rail passenger transportation use of right-of-way or facilities owned, leased, or maintained by any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State, punitive damages, to the extent permitted by applicable State law, may be awarded in connection with any such claim only if the plaintiff establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others. If, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, this paragraph shall not apply.

(2) The aggregate allowable awards to all rail passengers, against all defendants, for all claims, including claims for punitive damages, arising from a single accident or incident, shall not exceed $200,000,000.

(b) CONTRACTUAL OBLIGATIONS.—A provider of rail passenger transportation may enter into contracts that allocate financial responsibility for claims.

(c) MANDATORY COVERAGE.—Amtrak shall maintain a total minimum liability coverage for claims through insurance and self-insurance of at least $200,000,000 per accident or incident.

(d) EFFECT ON OTHER LAWS.—This section shall not affect the damages that may be recovered under the Act of April 27, 1908 (45 U.S.C. 51 et seq.; popularly known as the ''Federal Employers' Liability Act'') or under any workers compensation Act.

(e) DEFINITION.—For purposes of this section—

(1) the term ''claim'' means a claim made—

(A) against Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State; or

(B) against an officer, employee, affiliate engaged in railroad operations, or agent, of Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State;

(2) the term ''punitive damages'' means damages awarded against any person or entity to punish or deter such person or entity, or others, from engaging in similar behavior in the future; and

(3) the term ''rail carrier'' includes a person providing excursion, scenic, or museum train service, and an owner or operator of a privately owned rail passenger car.

(Added Pub. L. 105–134, title I, § 161(a), Dec. 2, 1997, 111 Stat. 2577.)

REFERENCES IN TEXT

The Federal Employers' Liability Act, referred to in subsec. (d), is act Apr. 22, 1908, ch. 149, 35 Stat. 65, as amended, which is classified generally to chapter 2 (§ 51 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see Short Title note set out under section 51 of Title 45 and Tables.

CHAPTER 283—STANDARD WORK DAY

Sec.
28301. General.
28302. Penalties.

§ 28301. General

(a) EIGHT HOUR DAY.—In contracts for labor and service, 8 hours shall be a day's work and the standard day's work for determining the compensation for services of an employee employed by a common carrier by railroad subject to subtitle IV of this title and actually engaged in any capacity in operating trains used for transporting passengers or property on railroads from—

(1) a State of the United States or the District of Columbia to any other State or the District of Columbia;

(2) one place in a territory or possession of the United States to another place in the same territory or possession;

(3) a place in the United States to an adjacent foreign country; or

(4) a place in the United States through a foreign country to any other place in the United States.

(b) APPLICATION.—Subsection (a) of this section—

(1) does not apply to—

(A) an independently owned and operated railroad not exceeding one hundred miles in length;

(B) an electric street railroad; and

(C) an electric interurban railroad; but

(2) does apply to an independently owned and operated railroad less than one hundred miles in length—

(A) whose principal business is leasing or providing terminal or transfer facilities to other railroads; or

(B) engaged in transfers of freight between railroads or between railroads and industrial plants.

(Added Pub. L. 104–287, § 5(56)(A), Oct. 11, 1996, 110 Stat. 3394.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
28301	45:65.	Sept. 3, 5, 1916, ch. 436, § 1, 39 Stat. 721.
	(uncodified).	Sept. 3, 5, 1916, ch. 436, §§ 2, 3, 39 Stat. 721.

In subsection (a), the word ''determining'' is substituted for ''reckoning'' for clarity. The words ''who are not or may hereafter be employed'' are omitted as surplus. In clause (1), the words ''or territory'' are

omitted because the existing territories of the United States are now connected to the United States by rail. In clause (2), the words ''or possession of the United States'' are added for consistency in the revised title and with other titles of the United States Code.

The text of sections 2 and 3 of the Act of September 3, 5, 1916 (ch. 436, 39 Stat. 721), is omitted to eliminate executed provisions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28302 of this title.

§ 28302. Penalties

A person violating section 28301 of this title shall be fined under title 18, imprisoned not more than one year, or both.

(Added Pub. L. 104–287, § 5(56)(A), Oct. 11, 1996, 110 Stat. 3394.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
28302	45:66.	Sept. 3, 5, 1916, ch. 436, § 4, 39 Stat. 722.

The words ''shall be guilty of a misdemeanor'' are omitted, and the words ''shall be fined under title 18'' are substituted for ''shall be fined not less than $100 and not more than $1,000'', for consistency with title 18. The words ''upon conviction'' are omitted as surplus.

SUBTITLE VI—MOTOR VEHICLE AND DRIVER PROGRAMS

PART A—GENERAL

Chapter		Sec.
301.	**Motor Vehicle Safety**	**30101**
303.	**National Driver Register**	**30301**
305.	**National Motor Vehicle Title Information System**	**30501**

PART B—COMMERCIAL

311.	**Commercial Motor Vehicle Safety**	**31101**
313.	**Commercial Motor Vehicle Operators**	**31301**
315.	**Motor Carrier Safety**	**31501**
317.	**Participation in International Registration Plan and International Fuel Tax Agreement**	**31701**

PART C—INFORMATION, STANDARDS, AND REQUIREMENTS

321.	**General**	**32101**
323.	**Consumer Information**	**32301**
325.	**Bumper Standards**	**32501**
327.	**Odometers**	**32701**
329.	**Automobile Fuel Economy**	**32901**
331.	**Theft Prevention**	**33101**

AMENDMENTS

1997—Pub. L. 105–102, § 2(17), Nov. 20, 1997, 111 Stat. 2205, substituted ''National Motor Vehicle Title Information System'' for ''National Automobile Title Information System'' in item for chapter 305.

PART A—GENERAL

CHAPTER 301—MOTOR VEHICLE SAFETY

SUBCHAPTER I—GENERAL

Sec.
30101. Purpose and policy.
30102. Definitions.
30103. Relationship to other laws.
30104. Authorization of appropriations.

SUBCHAPTER II—STANDARDS AND COMPLIANCE

30111. Standards.
30112. Prohibitions on manufacturing, selling, and importing noncomplying motor vehicles and equipment.
30113. General exemptions.
30114. Special exemptions.
30115. Certification of compliance.
30116. Defects and noncompliance found before sale to purchaser.
30117. Providing information to, and maintaining records on, purchasers.
30118. Notification of defects and noncompliance.
30119. Notification procedures.
30120. Remedies for defects and noncompliance.
30121. Provisional notification and civil actions to enforce.
30122. Making safety devices and elements inoperative.
30123. Tires.
30124. Buzzers indicating nonuse of safety belts.
30125. Schoolbuses and schoolbus equipment.
30126. Used motor vehicles.
30127. Automatic occupant crash protection and seat belt use.

SUBCHAPTER III—IMPORTING NONCOMPLYING MOTOR VEHICLES AND EQUIPMENT

30141. Importing motor vehicles capable of complying with standards.
30142. Importing motor vehicles for personal use.
30143. Motor vehicles imported by individuals employed outside the United States.
30144. Importing motor vehicles on a temporary basis.
30145. Importing motor vehicles or equipment requiring further manufacturing.
30146. Release of motor vehicles and bonds.
30147. Responsibility for defects and noncompliance.

SUBCHAPTER IV—ENFORCEMENT AND ADMINISTRATIVE

30161. Judicial review of standards.
30162. Petitions by interested persons for standards and enforcement.
30163. Actions by the Attorney General.
30164. Service of process.
30165. Civil penalty.
30166. Inspections, investigations, and records.
30167. Disclosure of information by the Secretary of Transportation.
30168. Research, testing, development, and training.
30169. Annual reports.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 105, 32502, 32511, 32705, 32902 of this title; title 18 sections 511, 512, 2721; title 42 sections 4905, 7590, 13257.

SUBCHAPTER I—GENERAL

§ 30101. Purpose and policy

The purpose of this chapter is to reduce traffic accidents and deaths and injuries resulting from traffic accidents. Therefore it is necessary—

(1) to prescribe motor vehicle safety standards for motor vehicles and motor vehicle equipment in interstate commerce; and

(2) to carry out needed safety research and development.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 941.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30101	15:1381.	Sept. 9, 1966, Pub. L. 89–563, § 1, 80 Stat. 718.

The words ''Congress hereby declares that'', ''to persons'', and ''Congress determines that'' are omitted as surplus. The words ''motor vehicle'' before ''equipment'' are added for consistency. The words ''and to expand the national driver register'' are omitted because section 401 of the National Traffic and Motor Vehicle Safety Act of 1966 (Public Law 89–563, 80 Stat. 730), the only section in this law related to the national driver register, was superseded by the National Driver Register Act of 1982 (Public Law 97–364, 96 Stat. 1740).

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–152, §1, July 2, 1996, 110 Stat. 1384, provided that: ''This Act [amending sections 30501 to 30505 and 33109 of this title and enacting provisions set out as a note under section 30502 of this title] may be cited as the 'Anti-Car Theft Improvements Act of 1996'.''

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AUTHORIZATION ACT OF 1991

Pub. L. 102–240, title II, part B, Dec. 18, 1991, 105 Stat. 2081, as amended by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, provided that:

''SEC. 2500. SHORT TITLE.

''This part may be cited as the 'National Highway Traffic Safety Administration Authorization Act of 1991'.

''[SEC. 2501. Repealed. Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379.]

''SEC. 2502. GENERAL PROVISIONS.

''(a) DEFINITIONS.—As used in this part—

''(1) the term 'bus' means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons;

''(2) the term 'multipurpose passenger vehicle' means a motor vehicle with motive power (except a trailer), designed to carry 10 persons or fewer, which is constructed either on a truck chassis or with special features for occasional off-road operation;

''(3) the term 'passenger car' means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer), designed for carrying 10 persons or fewer;

''(4) the term 'truck' means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment; and

''(5) the term 'Secretary' means the Secretary of Transportation.

''(b) PROCEDURE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), any action taken under section 2503 shall be taken in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 ([formerly] 15 U.S.C. 1381 et seq.).

''(2) SPECIFIC PROCEDURE.—

''(A) INITIATION.—To initiate an action under section 2503, the Secretary shall, not later than May 31, 1992, publish in the Federal Register an advance notice of proposed rulemaking or a notice of proposed rulemaking, except that if the Secretary is unable to publish such a notice by such date, the Secretary shall by such date publish in the Federal Register a notice that the Secretary will begin such action by a certain date which may not be later than January 31, 1993 and include in such notice the reasons for the delay. A notice of delayed action shall not be considered agency action subject to judicial review. If the Secretary publishes an advance notice of proposed rulemaking, the Secretary is not required to follow such notice with a notice of proposed rulemaking if the Secretary determines on the basis of such advanced notice and the comments received thereon that the contemplated action should not be taken under the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 ([formerly] 15 U.S.C. 1381 et seq.), including the provisions of section 103 of such Act ([formerly] 15 U.S.C. 1392), and if the Secretary publishes the reasons for such determination consistent with chapter 5 of title 5, United States Code.

''(B) COMPLETION.—

''(i) PERIOD.—Action under paragraphs (1) through (4) of section 2503 which was begun under subparagraph (A) shall be completed within 26 months of the date of publication of an advance notice of proposed rulemaking or 18 months of the date of publication of a notice of proposed rulemaking. The Secretary may extend for any reason the period for completion of a rulemaking initiated by the issuance of a notice of proposed rulemaking for not more than 6 months if the Secretary publishes the reasons for such extension. The extension of such period shall not be considered agency action subject to judicial review.

''(ii) ACTION.—A rulemaking under paragraphs (1) through (4) of section 2503 shall be considered completed when the Secretary promulgates a final rule or when the Secretary decides not to promulgate a rule (which decision may include deferral of the action or reinitiation of the action). The Secretary may not decide against promulgation of a final rule because of lack of time to complete rulemaking. Any such rulemaking actions shall be published in the Federal Register, together with the reasons for such decisions, consistent with chapter 5 of title 5, United States Code, and the National Traffic and Motor Vehicle Safety Act of 1966 [formerly 15 U.S.C. 1381 et seq.].

''(iii) SPECIAL RULE.—

''(I) PERIOD.—Action under paragraph (5) of section 2503 which was begun under subparagraph (A) shall be completed within 24 months of the date of publication of an advance notice of proposed rulemaking or a notice of proposed rulemaking. If the Secretary determines that there is a need for delay and if the public comment period is closed, the Secretary may extend the date for completion for not more than 6 months and shall publish in the Federal Register a notice stating the reasons for the extension and setting a date certain for completion of the action. The extension of the completion date shall not be considered agency action subject to judicial review.

''(II) ACTION.—A rulemaking under paragraph (5) of section 2503 shall be considered completed when the Secretary promulgates a final rule with standards on improved head injury protection.

''(C) STANDARD.—The Secretary may, as part of any action taken under section 2503, amend any motor vehicle safety standard or establish a new standard under the National Traffic and Motor Vehicle Safety Act of 1966 ([formerly] 15 U.S.C. 1381 et seq.).

''SEC. 2503. MATTERS BEFORE THE SECRETARY.

''The Secretary shall address the following matters in accordance with section 2502:

''(1) Protection against unreasonable risk of rollovers of passenger cars, multipurpose passenger vehicles, and trucks with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less.

''(2) Extension of passenger car side impact protection to multipurpose passenger vehicles and trucks with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less.

''(3) Safety of child booster seats used in passenger cars and other appropriate motor vehicles.

''(4) Improved design for safety belts.

''(5) Improved head impact protection from interior components of passenger cars (i.e. roof rails, pillars, and front headers).

''[SECS. 2504, 2505. Repealed. Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379.]

''SEC. 2506. REAR SEATBELTS.

''The Secretary shall expend such portion of the funds authorized to be appropriated under the Motor Vehicle Information and Cost Savings Act ([formerly] 15 U.S.C. 1901 et seq.), for fiscal year 1993, as the Secretary deems necessary for the purpose of disseminating information to consumers regarding the manner in which passenger cars may be retrofitted with lap and shoulder rear seatbelts.

''SEC. 2507. BRAKE PERFORMANCE STANDARDS FOR PASSENGER CARS.

''Not later than December 31, 1993, the Secretary, in accordance with the National Traffic and Motor Vehicle Safety Act of 1966 [formerly 15 U.S.C. 1381 et seq.], shall publish an advance notice of proposed rulemaking to consider the need for any additional brake performance standards for passenger cars, including antilock brake standards. The Secretary shall complete such rulemaking (in accordance with section 2502(b)(2)(B)(ii)) not later than 36 months from the date of initiation of such advance notice of proposed rulemaking. In order to facilitate and encourage innovation and early application of economical and effective antilock brake systems for all such vehicles, the Secretary shall, as part of the rulemaking, consider any such brake system adopted by a manufacturer.

''[SEC. 2508. Repealed. Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379.]

''SEC. 2509. HEAD INJURY IMPACT STUDY.

''The Secretary, in the case of any head injury protection matters not subject to section 2503(5) for which the Secretary is on the date of enactment of this Act [Dec. 18, 1991] examining the need for rulemaking and is conducting research, shall provide a report to Congress by the end of fiscal year 1993 identifying those matters and their status. The report shall include a statement of any actions planned toward initiating such rulemaking no later than fiscal year 1994 or 1995 through use of either an advance notice of proposed rulemaking or a notice of proposed rulemaking and completing such rulemaking as soon as possible thereafter.''

FUEL SYSTEM INTEGRITY STANDARD

Pub. L. 93–492, title I, §108, Oct. 27, 1974, 88 Stat. 1482, provided that:

''(a) RATIFICATION OF STANDARD.—Federal Motor Vehicle Safety Standard Number 301 (49 CFR 571.301–75; Docket No. 73–20, Notice 2) as published on March 21, 1974 (39 F.R. 10588–10590) shall take effect on the dates prescribed in such standard (as so published).

''(b) AMENDMENT OR REPEAL OF STANDARD.—The Secretary may amend the standard described in subsection (a) in order to correct technical errors in the standard, and may amend or repeal such standard if he determines such amendment or repeal will not diminish the level of motor vehicle safety.''

EX. ORD. NO. 11357. ADMINISTRATION OF TRAFFIC AND MOTOR VEHICLE SAFETY THROUGH NATIONAL HIGHWAY SAFETY BUREAU AND ITS DIRECTOR

Ex. Ord. No. 11357, June 6, 1967, 32 F.R. 8225, provided: By virtue of the authority vested in me as President of the United States by Section 201 of the Highway Safety Act of 1966, as amended (80 Stat. 735, 943) [set out as a note under section 401 of Title 23, Highways], and by Section 3(f)(3) of the Department of Transportation Act (80 Stat. 932) [former 49 U.S.C. 1652(f)(3)], it is hereby ordered that the provisions of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (80 Stat. 718, 943) [formerly 15 U.S.C. 1381 et seq.], shall be carried out through the National Highway Safety Bureau and the Director thereof.

LYNDON B. JOHNSON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30111, 30122, 30123, 30167 of this title.

§ 30102. Definitions

(a) GENERAL DEFINITIONS.—In this chapter—

(1) ''dealer'' means a person selling and distributing new motor vehicles or motor vehicle equipment primarily to purchasers that in good faith purchase the vehicles or equipment other than for resale.

(2) ''defect'' includes any defect in performance, construction, a component, or material of a motor vehicle or motor vehicle equipment.

(3) ''distributor'' means a person primarily selling and distributing motor vehicles or motor vehicle equipment for resale.

(4) ''interstate commerce'' means commerce between a place in a State and a place in another State or between places in the same State through another State.

(5) ''manufacturer'' means a person—

(A) manufacturing or assembling motor vehicles or motor vehicle equipment; or

(B) importing motor vehicles or motor vehicle equipment for resale.

(6) ''motor vehicle'' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

(7) ''motor vehicle equipment'' means—

(A) any system, part, or component of a motor vehicle as originally manufactured;

(B) any similar part or component manufactured or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a motor vehicle; or

(C) any device or an article or apparel (except medicine or eyeglasses prescribed by a licensed practitioner) that is not a system, part, or component of a motor vehicle and is manufactured, sold, delivered, offered, or intended to be used only to safeguard motor vehicles and highway users against risk of accident, injury, or death.

(8) ''motor vehicle safety'' means the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.

(9) ''motor vehicle safety standard'' means a minimum standard for motor vehicle or motor vehicle equipment performance.

(10) ''State'' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(11) ''United States district court'' means a district court of the United States, a United States court for Guam, the Virgin Islands, and American Samoa, and the district court for the Northern Mariana Islands.

(b) LIMITED DEFINITIONS.—(1) In sections 30117(b), 30118–30121, and 30166(f) of this title—

(A) ''adequate repair'' does not include repair resulting in substantially impaired operation of a motor vehicle or motor vehicle equipment;

(B) ''first purchaser'' means the first purchaser of a motor vehicle or motor vehicle equipment other than for resale;

(C) ''original equipment'' means motor vehicle equipment (including a tire) installed in or on a motor vehicle at the time of delivery to the first purchaser;

(D) ''replacement equipment'' means motor vehicle equipment (including a tire) that is not original equipment;

(E) a brand name owner of a tire marketed under a brand name not owned by the manufacturer of the tire is deemed to be the manufacturer of the tire;

(F) a defect in original equipment, or noncompliance of original equipment with a motor vehicle safety standard prescribed under this chapter, is deemed to be a defect or noncompliance of the motor vehicle in or on which the equipment was installed at the time of delivery to the first purchaser;

(G) a manufacturer of a motor vehicle in or on which original equipment was installed when delivered to the first purchaser is deemed to be the manufacturer of the equipment; and

(H) a retreader of a tire is deemed to be the manufacturer of the tire.

(2) The Secretary of Transportation may prescribe regulations changing paragraph (1)(C), (D), (F), or (G) of this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 941.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30102(a)(1) ..	15:1391(7).	Sept. 9, 1966, Pub. L. 89–563, § 102(1)–(3), (5)–(9), (11), (12), 80 Stat. 718, 719.
	15:1391(10).	Sept. 9, 1966, Pub. L. 89–563, § 102(10), 80 Stat. 718; restated Oct. 27, 1974, Pub. L. 93–492, § 110(a), 88 Stat. 1484.
	49 App.:1655(a)(6)(A).	Oct. 15, 1966, Pub. L. 89–670, § 6(a)(6)(A), 80 Stat. 938.
30102(a)(2) ..	15:1391(11).	
30102(a)(3) ..	15:1391(6).	
30102(a)(4) ..	15:1391(9).	
30102(a)(5) ..	15:1391(5).	
30102(a)(6) ..	15:1391(3).	
30102(a)(7) ..	15:1391(4).	Sept. 9, 1966, Pub. L. 89–563, § 102(4), 80 Stat. 718; restated May 22, 1970, Pub. L. 91–265, § 2, 84 Stat. 262.
30102(a)(8) ..	15:1391(1).	
30102(a)(9) ..	15:1391(2).	
30102(a)(10)	15:1391(8).	
30102(a)(11)	15:1391(12).	
30102(b)	15:1419.	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 159; added Oct. 27, 1974, Pub. L. 93–492, § 102(a), 88 Stat. 1476.

In subsection (a), the definitions apply to the entire chapter because of references in 15:1421–1431 applying 15:1391–1420 to 15:1421–1431. Before clause (1), the words ''As used'' are omitted as surplus. In clause (1), the text of 15:1391(10) and 49 App.:1655(a)(6)(A) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section. The words ''selling and distributing'' are substituted for ''who is engaged in the sale and distribution of'' to eliminate unnecessary words. The word ''purposes'' is omitted as surplus. In clause (3), the words ''selling and distributing'' are substituted for ''engaged in the sale and distribution of'' to eliminate unnecessary words. In clause (5)(A), the words ''manufacturing or assembling'' are substituted for ''engaged in the manufacturing or assembling of'' to eliminate unnecessary words. In clause (7), the words ''physician or other duly'' and ''drivers, passengers, and other'' are omitted as surplus. In clause (8), the words ''is also protected'' and ''to persons'' are omitted as unnecessary. In clause (9), the words ''which is practicable, which meets the need for motor vehicle safety and which provides objective criteria'' are omitted as unnecessary because of 15:1392(a) which is restated in section 30111 of the revised title. In clauses (10) and (11), the words ''the Northern Mariana Islands'' are added because of section 502(a)(2) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as enacted by the Act of March 24, 1976 (Public Law 94–241, 90 Stat. 268), and as proclaimed to be in effect by the President on January 9, 1978 (Proc. No. 4534, Oct. 24, 1977, 42 F.R. 56593). The words ''the Canal Zone'' are omitted because of the Panama Canal Treaty of 1977. In clause (10), the word ''means'' is substituted for ''includes'' as being more appropriate. The words ''a State of the United States'' are substituted for ''each of the several States'' for consistency. The words ''the Commonwealth of'' are omitted as surplus. In clause (11), the word ''Federal'' is omitted as surplus. The words ''of the Commonwealth of Puerto Rico'' are omitted as unnecessary because the district court of Puerto Rico is a district court of the United States under 28:119.

In subsection (b)(1), before clause (A), the words ''The term'' and ''the term'' are omitted as surplus. In clause (B), the words ''of a motor vehicle or motor vehicle equipment'' are added for clarity. In clause (E), the words ''to be'' are added for consistency. The words ''marketed under such brand name'' are omitted as surplus. In clause (F), the words ''a motor vehicle safety standard prescribed under this chapter'' are added for clarity and consistency. The word ''noncompliance'' is substituted for ''failure to comply'' for consistency in the chapter. In clause (G), the words ''(rather than the manufacturer of such equipment)'' are omitted as surplus. The words ''deemed to be'' are substituted for ''considered'' for consistency. In clause (H), the words ''which have been'' are omitted as surplus.

Subsection (b)(2) is substituted for ''Except as otherwise provided in regulations of the Secretary'' for clarity and because of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 2052.

§ 30103. Relationship to other laws

(a) UNIFORMITY OF REGULATIONS.—The Secretary of Transportation may not prescribe a safety regulation related to a motor vehicle subject to subchapter I of chapter 135 of this title that differs from a motor vehicle safety standard prescribed under this chapter. However, the Secretary may prescribe, for a motor vehicle operated by a carrier subject to subchapter I of chapter 135, a safety regulation that imposes a higher standard of performance after manufacture than that required by an applicable standard in effect at the time of manufacture.

(b) PREEMPTION.—(1) When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. However, the United States Government, a State, or a political sub-

division of a State may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the otherwise applicable standard under this chapter.

(2) A State may enforce a standard that is identical to a standard prescribed under this chapter.

(c) ANTITRUST LAWS.—This chapter does not—

(1) exempt from the antitrust laws conduct that is unlawful under those laws; or

(2) prohibit under the antitrust laws conduct that is lawful under those laws.

(d) WARRANTY OBLIGATIONS AND ADDITIONAL LEGAL RIGHTS AND REMEDIES.—Sections 30117(b), 30118–30121, 30166(f), and 30167(a) and (b) of this title do not establish or affect a warranty obligation under a law of the United States or a State. A remedy under those sections and sections 30161 and 30162 of this title is in addition to other rights and remedies under other laws of the United States or a State.

(e) COMMON LAW LIABILITY.—Compliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 943; Pub. L. 104–88, title III, §308(j), Dec. 29, 1995, 109 Stat. 947.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30103(a)	15:1392(g).	Sept. 9, 1966, Pub. L. 89–563, §§103(g), 105(a)(6), 116, 80 Stat. 720, 721, 727.
30103(b)	15:1392(d).	Sept. 9, 1966, Pub. L. 89–563, §103(d), 80 Stat. 719; Oct. 15, 1982, Pub. L. 97–331, §3, 96 Stat. 1619.
30103(c)	15:1405.	
30103(d)	15:1394(a)(6).	
	15:1410a(e).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §§124(e), 160; added Oct. 27, 1974, Pub. L. 93–492, §§102(a), 106, 88 Stat. 1477, 1481.
	15:1420.	
30103(e)	15:1397(k).	Sept. 9, 1966, Pub. L. 89–563, §108(k), 80 Stat. 723; Oct. 31, 1988, Pub. L. 100–562, §2(b), 102 Stat. 2818.

In subsection (a), the words ''or the Transportation of Explosives Act, as amended (18 U.S.C. 831–835)'' are omitted as obsolete because 18:831–835 have been repealed. The word ''prescribe'' is substituted for ''adopt'' for consistency. The words ''or continue in effect'' and ''In prescribing safety regulations'' are omitted as surplus. The word ''prescribed'' is substituted for ''issued'' for consistency. The words ''to comply'' and ''Federal'' are omitted as surplus. The words ''in effect'' are added for clarity.

In subsection (b)(1), the word ''Federal'' is omitted as surplus. The word ''prescribe'' is substituted for ''either to establish, or to continue in effect'' for consistency and to eliminate unnecessary words. The words ''standard prescribed under this chapter'' are substituted for ''Federal standard'' for clarity. The words ''However, the United States . . . may prescribe'' are substituted for ''Nothing in this section shall be construed to prevent the Federal . . . from establishing'' for consistency. The words ''of a State'' are substituted for ''thereof'' for clarity. The word ''standard'' is substituted for ''safety requirement'' for consistency. The words ''performance requirement'' are substituted for ''standard of performance'' to avoid using ''standard'' in 2 different ways.

Subsection (b)(2) is substituted for 15:1392(d) (2d sentence) for consistency and to eliminate unnecessary words.

In subsection (c), the words ''be deemed to'' and ''of the United States'' are omitted as surplus.

In subsection (d), the words ''United States'' are substituted for ''Federal'' in 15:1420 for consistency. The words ''Consumer'' in 15:1420, ''not in lieu of'' in 15:1410a(e) and 1420, and ''not in substitution for'' in 15:1394(a)(6) are omitted as surplus. The word ''other'' is added for clarity.

AMENDMENTS

1995—Subsec. (a). Pub. L. 104–88 substituted ''subchapter I of chapter 135'' for ''subchapter II of chapter 105'' in two places.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31136 of this title.

§ 30104. Authorization of appropriations

The following amounts may be appropriated to the Secretary of Transportation for the National Highway Traffic Safety Administration to carry out this chapter:

(1) $71,333,436 for the fiscal year ending September 30, 1993.

(2) $74,044,106 for the fiscal year ending September 30, 1994.

(3) $76,857,782 for the fiscal year ending September 30, 1995.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 944.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30104	15:1392 (note).	Dec. 18, 1991, Pub. L. 102–240, §2501(a), 105 Stat. 2081.

In this section, before clause (1), the words ''to the Secretary of Transportation for the National Highway Traffic Safety Administration'' are substituted for ''For the National Highway Traffic Safety Administration'' for clarity and consistency in the revised title and with other titles of the United States Code. The reference to fiscal year 1992 is omitted as obsolete.

SUBCHAPTER II—STANDARDS AND COMPLIANCE

§ 30111. Standards

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall prescribe motor vehicle safety standards. Each standard shall be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

(b) CONSIDERATIONS AND CONSULTATION.—When prescribing a motor vehicle safety standard under this chapter, the Secretary shall—

(1) consider relevant available motor vehicle safety information;

(2) consult with the agency established under the Act of August 20, 1958 (Public Law 85–684, 72 Stat. 635), and other appropriate State or interstate authorities (including legislative committees);

(3) consider whether a proposed standard is reasonable, practicable, and appropriate for

the particular type of motor vehicle or motor vehicle equipment for which it is prescribed; and

(4) consider the extent to which the standard will carry out section 30101 of this title.

(c) COOPERATION.—The Secretary may advise, assist, and cooperate with departments, agencies, and instrumentalities of the United States Government, States, and other public and private agencies in developing motor vehicle safety standards.

(d) EFFECTIVE DATES OF STANDARDS.—The Secretary shall specify the effective date of a motor vehicle safety standard prescribed under this chapter in the order prescribing the standard. A standard may not become effective before the 180th day after the standard is prescribed or later than one year after it is prescribed. However, the Secretary may prescribe a different effective date after finding, for good cause shown, that a different effective date is in the public interest and publishing the reasons for the finding.

(e) 5-YEAR PLAN FOR TESTING STANDARDS.—The Secretary shall establish and periodically review and update on a continuing basis a 5-year plan for testing motor vehicle safety standards prescribed under this chapter that the Secretary considers capable of being tested. In developing the plan and establishing testing priorities, the Secretary shall consider factors the Secretary considers appropriate, consistent with section 30101 of this title and the Secretary's other duties and powers under this chapter. The Secretary may change at any time those priorities to address matters the Secretary considers of greater priority. The initial plan may be the 5-year plan for compliance testing in effect on December 18, 1991.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 944.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30111(a)	15:1392(a), (b), (e) (1st sentence).	Sept. 9, 1966, Pub. L. 89–563, §§ 102(13), 103(a)–(c), (e), (f), 107 (related to standards), 80 Stat. 719, 721.
30111(b)	15:1391(13). 15:1392(f).	
30111(c)	15:1396 (related to standards).	
30111(d)	15:1392(c), (e) (last sentence).	
30111(e)	15:1392(j).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 103(j); added Dec. 18, 1991, Pub. L. 102–240, § 2505, 105 Stat. 2084.

In subsection (a), the words ''shall prescribe'' are substituted for ''shall establish by order'' in 15:1392(a) and ''may by order'' in 15:1392(e) (1st sentence) for consistency. The words ''amend or revoke'' in 15:1392(e) (1st sentence) and 1397(b)(1) (last sentence) are omitted because they are included in ''prescribe''. The words ''appropriate Federal'' in 15:1392(a) and ''Federal'' in 15:1392(e) (1st sentence) are omitted as surplus. The words ''established under this section'' are omitted because of the restatement. The text of 15:1392(b) is omitted as surplus because 5:chs. 5, subch. II, and 7 apply unless otherwise stated.

In subsection (b)(1), the words ''including the results of research, development, testing and evaluation activities conducted pursuant to this chapter'' are omitted as surplus.

In subsection (b)(2), the words ''agency established under the Act of August 20, 1958 (Public Law 85–684, 72 Stat. 635)'' are substituted for 15:1391(13) and ''the Vehicle Equipment Safety Commission'' in 15:1392(f) because of the restatement. The citation in parenthesis is included only for information purposes.

In subsection (b)(4), the words ''contribute to'' are omitted as surplus.

In subsection (c), the words ''departments, agencies, and instrumentalities of the United States Government, States, and other public and private agencies'' are substituted for ''other Federal departments and agencies, and State and other interested public and private agencies'' for consistency. The words ''planning and'' are omitted as surplus.

In subsection (d), the words ''The Secretary'' are added for clarity. The words ''effective date'' are substituted for ''the date . . . is to take effect'' to eliminate unnecessary words. The words ''under this chapter'' are added for clarity. The words ''However, the Secretary may prescribe a different effective date'' are substituted for ''unless the Secretary'' for clarity. The word ''different'' is substituted for ''earlier or later'' to eliminate unnecessary words.

In subsection (e), the words ''duties and powers'' are substituted for ''responsibilities'', and the word ''change'' is substituted for ''adjust'', and for clarity and consistency in the revised title.

REFERENCES IN TEXT

Act of August 20, 1958, referred to in subsec. (b)(2), is set out as a note under former section 313 of Title 23, Highways.

§ 30112. Prohibitions on manufacturing, selling, and importing noncomplying motor vehicles and equipment

(a) GENERAL.—Except as provided in this section, sections 30113 and 30114 of this title, and subchapter III of this chapter, a person may not manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, any motor vehicle or motor vehicle equipment manufactured on or after the date an applicable motor vehicle safety standard prescribed under this chapter takes effect unless the vehicle or equipment complies with the standard and is covered by a certification issued under section 30115 of this title.

(b) NONAPPLICATION.—This section does not apply to—

(1) the sale, offer for sale, or introduction or delivery for introduction in interstate commerce of a motor vehicle or motor vehicle equipment after the first purchase of the vehicle or equipment in good faith other than for resale;

(2) a person—

(A) establishing that the person had no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment does not comply with applicable motor vehicle safety standards prescribed under this chapter; or

(B) holding, without knowing about the noncompliance and before the vehicle or equipment is first purchased in good faith other than for resale, a certificate issued by a manufacturer or importer stating the vehicle or equipment complies with applicable standards prescribed under this chapter;

(3) a motor vehicle or motor vehicle equipment intended only for export, labeled for export on the vehicle or equipment and on the

outside of any container of the vehicle or equipment, and exported;

(4) a motor vehicle the Secretary of Transportation decides under section 30141 of this title is capable of complying with applicable standards prescribed under this chapter;

(5) a motor vehicle imported for personal use by an individual who receives an exemption under section 30142 of this title;

(6) a motor vehicle under section 30143 of this title imported by an individual employed outside the United States;

(7) a motor vehicle under section 30144 of this title imported on a temporary basis;

(8) a motor vehicle or item of motor vehicle equipment under section 30145 of this title requiring further manufacturing; or

(9) a motor vehicle that is at least 25 years old.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 945.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30112(a)	15:1397(a)(1)(A).	Sept. 9, 1966, Pub. L. 89–563, § 108(a)(1)(A), 80 Stat. 722; Oct. 27, 1974, Pub. L. 93–492, § 103(a)(1), 88 Stat. 1477; Oct. 31, 1988, Pub. L. 100–562, § 2(c), (d), 102 Stat. 2824.
	15:1397(c)(1).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 108(c)(1), (i); added Oct. 31, 1988, Pub. L. 100–562, § 2(b), 102 Stat. 2818, 2823.
30112(b) (1)–(3).	15:1397(a)(2)(D), (b)(1) (1st sentence), (2).	Sept. 9, 1966, Pub. L. 89–563, § 108(a)(2)(D), (b)(1) (1st sentence), (2), 80 Stat. 722; Oct. 27, 1974, Pub. L. 93–492, § 103(a)(1), 88 Stat. 1477, 1478.
	15:1397(b)(3).	Sept. 9, 1966, Pub. L. 89–563, § 108(b)(3), 80 Stat. 723; Oct. 27, 1974, Pub. L. 93–492, § 103(a)(1)(B), 88 Stat. 1478; Oct. 31, 1988, Pub. L. 100–562, § 2(a), 102 Stat. 2818.
30112(b) (4)–(8).	(no source).	
30112(b)(9) ..	15:1397(i).	

In subsection (a), the words ''Except as provided in this section . . . and subchapter III of this chapter'' are substituted for 15:1397(c)(1) to eliminate unnecessary words and because of the restatement. The reference to section 30113 is added for clarity.

In subsection (b), before clause (1), the text of 15:1397(a)(2)(D) is omitted as obsolete because under section 30124 of the revised title a standard prescribed under this chapter may not allow compliance by use of a safety belt interlock or a continuous buzzer. In clause (2)(A), the words ''despite exercising reasonable care'' are substituted for ''in the exercise of due care'' for clarity and consistency in the revised title. The words ''motor vehicle safety standards prescribed under this chapter'' are substituted for ''Federal motor vehicle safety standards'' for clarity and consistency in this chapter. In clause (2)(B), the words ''without knowing about the noncompliance'' are substituted for ''unless such person knows that such vehicle or equipment does not so conform'' to eliminate unnecessary words and for consistency in the revised title. Clauses (4)–(8) are added to provide cross–references to sections restating exceptions to the general rule restated in subsection (a) of this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30114, 30141, 30142, 30143, 30144, 30145, 30165 of this title.

§ 30113. General exemptions

(a) DEFINITION.—In this section, ''low-emission motor vehicle'' means a motor vehicle meeting the standards for new motor vehicles applicable to the vehicle under section 202 of the Clean Air Act (42 U.S.C. 7521) when the vehicle is manufactured and emitting an air pollutant in an amount significantly below one of those standards.

(b) AUTHORITY TO EXEMPT AND PROCEDURES.—(1) The Secretary of Transportation may exempt, on a temporary basis, motor vehicles from a motor vehicle safety standard prescribed under this chapter on terms the Secretary considers appropriate. An exemption may be renewed. A renewal may be granted only on reapplication and must conform to the requirements of this subsection.

(2) The Secretary may begin a proceeding under this subsection when a manufacturer applies for an exemption or a renewal of an exemption. The Secretary shall publish notice of the application and provide an opportunity to comment. An application for an exemption or for a renewal of an exemption shall be filed at a time and in the way, and contain information, this section and the Secretary require.

(3) The Secretary may act under this subsection on finding that—

(A) an exemption is consistent with the public interest and this chapter; and

(B)(i) compliance with the standard would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith;

(ii) the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard;

(iii) the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle; or

(iv) compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles.

(c) CONTENTS OF APPLICATIONS.—A manufacturer applying for an exemption under subsection (b) of this section shall include the following information in the application:

(1) if the application is made under subsection (b)(3)(B)(i) of this section, a complete financial statement describing the economic hardship and a complete description of the manufacturer's good faith effort to comply with each motor vehicle safety standard prescribed under this chapter from which the manufacturer is requesting an exemption.

(2) if the application is made under subsection (b)(3)(B)(ii) of this section, a record of the research, development, and testing establishing the innovative nature of the safety feature and a detailed analysis establishing that the safety level of the feature at least equals the safety level of the standard.

(3) if the application is made under subsection (b)(3)(B)(iii) of this section, a record of

the research, development, and testing establishing that the motor vehicle is a low-emission motor vehicle and that the safety level of the vehicle is not lowered unreasonably by exemption from the standard.

(4) if the application is made under subsection (b)(3)(B)(iv) of this section, a detailed analysis showing how the vehicle provides an overall safety level at least equal to the overall safety level of nonexempt vehicles.

(d) ELIGIBILITY.—A manufacturer is eligible for an exemption under subsection (b)(3)(B)(i) of this section only if the Secretary determines that the manufacturer's total motor vehicle production in the most recent year of production is not more than 10,000. A manufacturer is eligible for an exemption under subsection (b)(3)(B)(ii), (iii), or (iv) of this section only if the Secretary determines the exemption is for not more than 2,500 vehicles to be sold in the United States in any 12-month period.

(e) MAXIMUM PERIOD.—An exemption or renewal under subsection (b)(3)(B)(i) of this section may be granted for not more than 3 years. An exemption or renewal under subsection (b)(3)(B)(ii), (iii), or (iv) of this section may be granted for not more than 2 years.

(f) DISCLOSURE.—The Secretary may make public, by the 10th day after an application is filed, information contained in the application or relevant to the application unless the information concerns or is related to a trade secret or other confidential information not relevant to the application.

(g) NOTICE OF DECISION.—The Secretary shall publish in the Federal Register a notice of each decision granting an exemption under this section and the reasons for granting it.

(h) PERMANENT LABEL REQUIREMENT.—The Secretary shall require a permanent label to be fixed to a motor vehicle granted an exemption under this section. The label shall either name or describe each motor vehicle safety standard prescribed under this chapter from which the vehicle is exempt. The Secretary may require that written notice of an exemption be delivered by appropriate means to the dealer and the first purchaser of the vehicle other than for resale.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 945.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30113(a)	15:1410(g).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 123; added Apr. 10, 1968, Pub. L. 90–283, 82 Stat. 72; restated Oct. 25, 1972, Pub. L. 92–548, § 3, 86 Stat. 1159.
30113(b)	15:1410(a) (1st sentence), (c)(1) (23d–last words), (2) (23d–last words).	
30113(c)	15:1410(e).	
30113(d)	15:1410(d).	
30113(e)	15:1410(c)(1) (1st–22d words), (2) (1st–22d words).	
30113(f)	15:1410(f).	
30113(g)	15:1410(a) (last sentence).	
30113(h)	15:1410(b).	

In subsection (a), the words ''the term'' and ''type of'' are omitted as surplus. The words ''when the vehicle is manufactured'' are substituted for ''at the time of manufacture'' for consistency.

In subsection (b)(1), the words ''Except as provided in subsection (d) of this section'' are omitted as surplus. The words ''to such extent'' are omitted as being included in ''on terms the Secretary considers appropriate''.

In subsection (b)(2), the words ''The Secretary may begin a proceeding under this subsection . . . for an exemption or a renewal of an exemption'' are added because of the restatement. The words ''of the application'' are added for clarity. The words ''An application for an exemption or for a renewal of an exemption shall be filed'' are added because of the restatement.

In subsection (b)(3)(A), the words ''such temporary'' and ''the objectives of'' are omitted as surplus.

In subsection (b)(3)(B)(i), the words ''to a manufacturer that'' are substituted for ''such manufacturer . . . and that the manufacturer'' to eliminate unnecessary words. The words ''from which it requests to be exempted'' are omitted as surplus.

In subsection (b)(3)(B)(ii), the words ''from which an exemption is sought'' are omitted as surplus.

In subsection (b)(3)(B)(iii), the words ''lower the safety level'' are substituted for ''degrade the safety'' for clarity.

In subsection (b)(3)(B)(iv), the word ''requiring'' is omitted as surplus.

In subsection (c), before clause (1), the words ''the following information'' are added for clarity. In clause (1), the word ''describing'' is substituted for ''the basis of showing'' to eliminate unnecessary words. The words ''each motor vehicle safety standard prescribed under this chapter from which the manufacturer is requesting an exemption'' are substituted for ''the standards'' for clarity. In clauses (2) and (3), the words ''a record'' are substituted for ''documentation'' for consistency in the revised title. In clause (2), the words ''establishing that the safety level of the feature at least equals the safety level of the standard'' are substituted for ''establishing that the level of safety of the new safety feature is equivalent to or exceeds the level of safety established in the standard from which the exemption is sought'' because of the restatement. In clause (3), the word ''level'' is added, and the words ''lowered . . . by exemption from the standard'' are substituted for ''degraded'', for consistency in this section. In clause (4), the words ''at least equal to'' are substituted for ''equivalent to or exceeding'' for consistency.

In subsection (f), the text of 15:1410(f) (1st sentence) is omitted as executed. The words ''under this section all'' and ''other information'' are omitted as surplus. The words ''to the application'' are substituted for ''thereto'' for clarity. The words ''business'' and ''for exemption'' are omitted as surplus.

In subsection (g), the words ''The Secretary'' are added for clarity. The word ''temporary'' is omitted as surplus. The words ''under this section'' are added for clarity.

In subsection (h), the words ''a . . . label to be fixed to a motor vehicle granted an exemption under this section'' are substituted for ''labeling of each exempted motor vehicle . . . and be affixed to such exempted vehicles'' for clarity. The words ''of such exempted motor vehicle in such manner as he deems'' are omitted as surplus. The words ''motor vehicle safety standard prescribed under this chapter'' are substituted for ''the standards'' for clarity and consistency in this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 30112 of this title.

§ 30114. Special exemptions

The Secretary of Transportation may exempt a motor vehicle or item of motor vehicle equipment from section 30112(a) of this title on terms the Secretary decides are necessary for research, investigations, demonstrations, training, or competitive racing events.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 947.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30114	15:1397(j).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 108(j); added Oct. 31, 1988, Pub. L. 100–562, § 2(b), 102 Stat. 2824.

The word ''conditions'' is omitted as being included in ''terms'', and the word ''studies'' is omitted as being included in ''research''. The word ''solely'' is omitted as unnecessary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 30112 of this title.

§ 30115. Certification of compliance

A manufacturer or distributor of a motor vehicle or motor vehicle equipment shall certify to the distributor or dealer at delivery that the vehicle or equipment complies with applicable motor vehicle safety standards prescribed under this chapter. A person may not issue the certificate if, in exercising reasonable care, the person has reason to know the certificate is false or misleading in a material respect. Certification of a vehicle must be shown by a label or tag permanently fixed to the vehicle. Certification of equipment may be shown by a label or tag on the equipment or on the outside of the container in which the equipment is delivered.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 947.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30115	15:1397(a)(1)(C), (E) (related to 15:1403).	Sept. 9, 1966, Pub. L. 89–563, § 108(a)(1)(C), (E) (related to § 114), 80 Stat. 722; Oct. 27, 1974, Pub. L. 93–492, § 103(a)(1)(A), (2)(B), 88 Stat. 1477, 1478.
	15:1403.	Sept. 9, 1966, Pub. L. 89–563, § 114, 80 Stat. 726.

The words ''fail to issue a certificate required by section 1403 of this title'' in 15:1397(a)(1)(C) and the text of 15:1397(a)(1)(E) (related to 15:1403) are omitted as surplus. The word ''certify'' is substituted for ''furnish . . . the certification'' in 15:1403 to eliminate unnecessary words. The words ''the time of'' and ''of such vehicle or equipment by such manufacturer or distributor'' are omitted as surplus. The words ''prescribed under this chapter'' are added for clarity. The word ''reasonable'' is substituted for ''due'' in 15:1397(a)(1)(C) for consistency in the revised title. The words ''to the effect that a motor vehicle or item of motor vehicle equipment conforms to all applicable Federal motor vehicle safety standards'' are omitted because of the restatement. The words ''shown by'' are substituted for ''in the form of'' in 15:1403 for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30112, 30141, 30165 of this title.

§ 30116. Defects and noncompliance found before sale to purchaser

(a) ACTIONS REQUIRED OF MANUFACTURERS AND DISTRIBUTORS.—If, after a manufacturer or distributor sells a motor vehicle or motor vehicle equipment to a distributor or dealer and before the distributor or dealer sells the vehicle or equipment, it is decided that the vehicle or equipment contains a defect related to motor vehicle safety or does not comply with applicable motor vehicle safety standards prescribed under this chapter—

(1) the manufacturer or distributor immediately shall repurchase the vehicle or equipment at the price paid by the distributor or dealer, plus transportation charges and reasonable reimbursement of at least one percent a month of the price paid prorated from the date of notice of noncompliance or defect to the date of repurchase; or

(2) if a vehicle, the manufacturer or distributor immediately shall give to the distributor or dealer at the manufacturer's or distributor's own expense, the part or equipment needed to make the vehicle comply with the standards or correct the defect.

(b) DISTRIBUTOR OR DEALER INSTALLATION.—The distributor or dealer shall install the part or equipment referred to in subsection (a)(2) of this section. If the distributor or dealer installs the part or equipment with reasonable diligence after it is received, the manufacturer shall reimburse the distributor or dealer for the reasonable value of the installation and a reasonable reimbursement of at least one percent a month of the manufacturer's or distributor's selling price prorated from the date of notice of noncompliance or defect to the date the motor vehicle complies with applicable motor vehicle safety standards prescribed under this chapter or the defect is corrected.

(c) ESTABLISHING AMOUNT DUE AND CIVIL ACTIONS.—The parties shall establish the value of installation and the amount of reimbursement under this section. If the parties do not agree, or if a manufacturer or distributor refuses to comply with subsection (a) or (b) of this section, the distributor or dealer purchasing the motor vehicle or motor vehicle equipment may bring a civil action. The action may be brought in a United States district court for the judicial district in which the manufacturer or distributor resides, is found, or has an agent, to recover damages, court costs, and a reasonable attorney's fee. An action under this section must be brought not later than 3 years after the claim accrues.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 947.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30116(a)	15:1400(a) (less (2) (last 97 words)).	Sept. 9, 1966, Pub. L. 89–563, § 111, 80 Stat. 724.
30116(b)	15:1400(a)(2) (last 97 words).	
30116(c)	15:1400(b), (c).	

In subsection (a)(1), the words ''as the case may be'', ''from such distributor or dealer'', ''all . . . involved'', and ''by the manufacturer or distributor'' are omitted as surplus.

In subsection (a)(2), the words ''manufacturer's or distributor's'' are substituted for ''his'' for clarity. The words ''or parts'' are omitted because of 1:1. The words ''the vehicle comply with the standards or correct the defect'' are substituted for ''conforming'' for clarity.

In subsection (b), the words ''the part or equipment referred to in subsection (a)(2) of this section'' are

added because of the restatement. The words ''If the distributor or dealer installs the part or equipment with reasonable diligence after it is received, the manufacturer shall reimburse the distributor or dealer'' are substituted for ''and for the installation involved the manufacturer shall reimburse such distributor or dealer . . . *Provided*, *however*, That the distributor or dealer proceeds with reasonable diligence with the installation after the required part, parts or equipment are received'' to eliminate unnecessary words. The words ''on or in such vehicle'' are omitted as surplus. The words ''notice of noncompliance or defect'' are substituted for ''notice of such nonconformance'', and the words ''complies with applicable motor vehicle safety standards prescribed under this chapter or the defect is corrected'' are substituted for ''is brought into conformance with applicable Federal standards'', to eliminate unnecessary words and for consistency in the revised title.

In subsection (c), the words ''the amount of reimbursement'' are substituted for ''such reasonable reimbursements'' for clarity and because of the restatement. The words ''by mutual agreement'' are omitted as surplus. The words ''If the parties do not agree'' are substituted for ''or failing such agreement'', and the words ''by the court pursuant to the provisions of subsection (b) of this section'' are omitted, because of the restatement. The words ''the requirements of'', ''then'', ''as the case may be'', and ''without respect to the amount in controversy'' are omitted as surplus. The words ''civil action'' are substituted for ''suit'' because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''against such manufacturer or distributor'' are omitted as surplus. The word ''judicial'' is added for consistency. The words ''to recover damages, court costs, and a reasonable attorney's fee'' are substituted for ''and shall recover the damage by him sustained, as well as all court costs plus reasonable attorneys' fees'', and the words ''must be brought'' are substituted for ''shall be forever barred unless commenced'', to eliminate unnecessary words. The word ''claim'' is substituted for ''cause of action'' for consistency.

§ 30117. Providing information to, and maintaining records on, purchasers

(a) PROVIDING INFORMATION AND NOTICE.—The Secretary of Transportation may require that each manufacturer of a motor vehicle or motor vehicle equipment provide technical information related to performance and safety required to carry out this chapter. The Secretary may require the manufacturer to give the following notice of that information when the Secretary decides it is necessary:

(1) to each prospective purchaser of a vehicle or equipment before the first sale other than for resale at each location at which the vehicle or equipment is offered for sale by a person having a legal relationship with the manufacturer, in a way the Secretary decides is appropriate.

(2) to the first purchaser of a vehicle or equipment other than for resale when the vehicle or equipment is bought, in printed matter placed in the vehicle or attached to or accompanying the equipment.

(b) MAINTAINING PURCHASER RECORDS AND PROCEDURES.—(1) A manufacturer of a motor vehicle or tire (except a retreaded tire) shall cause to be maintained a record of the name and address of the first purchaser of each vehicle or tire it produces and, to the extent prescribed by regulations of the Secretary, shall cause to be maintained a record of the name and address of the first purchaser of replacement equipment (except a tire) that the manufacturer produces. The Secretary may prescribe by regulation the records to be maintained and reasonable procedures for maintaining the records under this subsection, including procedures to be followed by distributors and dealers to assist the manufacturer in obtaining the information required by this subsection. A procedure shall be reasonable for the type of vehicle or tire involved, and shall provide reasonable assurance that a customer list of a distributor or dealer, or similar information, will be made available to a person (except the distributor or dealer) only when necessary to carry out this subsection and sections 30118–30121, 30166(f), and 30167(a) and (b) of this title. Availability of assistance from a distributor or dealer does not affect an obligation of a manufacturer under this subsection.

(2)(A) Except as provided in paragraph (3) of this subsection, the Secretary may require a distributor or dealer to maintain a record under paragraph (1) of this subsection only if the business of the distributor or dealer is owned or controlled by a manufacturer of tires.

(B) The Secretary shall require each distributor and dealer whose business is not owned or controlled by a manufacturer of tires to give a registration form (containing the tire identification number) to the first purchaser of a tire. The Secretary shall prescribe the form, which shall be standardized for all tires and designed to allow the purchaser to complete and return it directly to the manufacturer of the tire. The manufacturer shall give sufficient copies of forms to distributors and dealers.

(3)(A) The Secretary shall evaluate from time to time how successful the procedures under paragraph (2) of this subsection have been in helping to maintain records about first purchasers of tires. After each evaluation, the Secretary shall decide—

(i) the extent to which distributors and dealers have complied with the procedures;

(ii) the extent to which distributors and dealers have encouraged first purchasers of tires to register the tires; and

(iii) whether to prescribe for manufacturers, distributors, or dealers other requirements that the Secretary decides will increase significantly the percentage of first purchasers of tires about whom records are maintained.

(B) The Secretary may prescribe a requirement under subparagraph (A) of this paragraph only if the Secretary decides it is necessary to reduce the risk to motor vehicle safety, after considering—

(i) the cost of the requirement to manufacturers and the burden of the requirement on distributors and dealers, compared to the increase in the percentage of first purchasers of tires about whom records would be maintained as a result of the requirement;

(ii) the extent to which distributors and dealers have complied with the procedures in paragraph (2) of this subsection; and

(iii) the extent to which distributors and dealers have encouraged first purchasers of tires to register the tires.

(C) A manufacturer of tires shall reimburse distributors and dealers of that manufacturer's

tires for all reasonable costs incurred by the distributors and dealers in complying with a requirement prescribed by the Secretary under subparagraph (A) of this paragraph.

(D) After making a decision under subparagraph (A) of this paragraph, the Secretary shall submit to each House of Congress a report containing a detailed statement of the decision and an explanation of the reasons for the decision.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 948.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30117(a)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(d)).	Sept. 9, 1966, Pub. L. 89–563, § 108(a)(1)(B) (related to § 112(d)), (D) (related to § 158(b)), (E) (related to § 112(d)), 80 Stat. 722; Oct. 27, 1974, Pub. L. 93–492, § 103(a)(1)(A), (2), (3), 88 Stat. 1477, 1478.
	15:1401(d).	Sept. 9, 1966, Pub. L. 89–563, § 112(d), 80 Stat. 725; May 22, 1970, Pub. L. 91–265, § 3, 84 Stat. 262.
30117(b)	15:1397(a)(1)(D) (related to 15:1418(b)).	
	15:1418(b)(1).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 158(b)(1); added Oct. 27, 1974, Pub. L. 93–492, § 102(a), 88 Stat. 1476; Nov. 6, 1978, Pub. L. 95–599, § 317, 92 Stat. 2752; Oct. 15, 1982, Pub. L. 97–331, § 4(a)(1), 96 Stat. 1619.
	15:1418(b)(2), (3).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 158(b)(2), (3); added Oct. 15, 1982, Pub. L. 97–331, § 4(a)(2), 96 Stat. 1620.

In this section, the text of 15:1397(a)(1)(B) (related to 15:1401(d)), (D) (related to 15:1418(b)), and (E) (related to 15:1401(d)) is omitted as surplus.

In subsection (a), before clause (1), the words ''such performance data and other'', ''as may be'', ''the purposes of'', ''performance and technical'', and ''to carry out the purposes of this chapter'' the 2d time they appear are omitted as surplus. In clause (1), the words ''such manufacturer's'' and ''which may include, but is not limited to, printed matter (A) available for retention by such prospective purchaser and (B) sent by mail to such prospective purchaser upon his request'' are omitted as surplus. The words ''legal relationship'' are substituted for ''contractual, proprietary, or other legal relationship'' to eliminate unnecessary words.

In subsection (b)(1), the word ''cause to be maintained'' is substituted for ''cause the establishment and maintenance of'' to eliminate unnecessary words. The words ''prescribe by regulation'' are substituted for ''by rule, specify'' for consistency and because ''rule'' and ''regulation'' are synonymous. The words ''under this subsection'' are added for clarity. The word ''involved'' is substituted for ''for which they are prescribed'' to eliminate unnecessary words. The words ''the purpose of'' and ''except that . . . or not'' are omitted as surplus. The words ''from a distributor or dealer'' are added for clarity.

In subsection (b)(3)(A), before clause (i), the words ''At the end of the two-year period following the effective date of this paragraph'' are omitted as expired. In clause (iii), the words ''(or any combination of such groups)'' are omitted as unnecessary.

In subsection (b)(3)(B), before clause (i), the words ''may prescribe a requirement'' are substituted for ''may order by rule the imposition of requirements'' for consistency and to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30102, 30103, 30141, 30147, 30165, 30166, 30167 of this title.

§ 30118. Notification of defects and noncompliance

(a) NOTIFICATION BY SECRETARY.—The Secretary of Transportation shall notify the manufacturer of a motor vehicle or replacement equipment immediately after making an initial decision (through testing, inspection, investigation, or research carried out under this chapter, examining communications under section 30166(f) of this title, or otherwise) that the vehicle or equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter. The notification shall include the information on which the decision is based. The Secretary shall publish a notice of each decision under this subsection in the Federal Register. Subject to section 30167(a) of this title, the notification and information are available to any interested person.

(b) DEFECT AND NONCOMPLIANCE PROCEEDINGS AND ORDERS.—(1) The Secretary may make a final decision that a motor vehicle or replacement equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter only after giving the manufacturer an opportunity to present information, views, and arguments showing that there is no defect or noncompliance or that the defect does not affect motor vehicle safety. Any interested person also shall be given an opportunity to present information, views, and arguments.

(2) If the Secretary decides under paragraph (1) of this subsection that the vehicle or equipment contains the defect or does not comply, the Secretary shall order the manufacturer to—

(A) give notification under section 30119 of this title to the owners, purchasers, and dealers of the vehicle or equipment of the defect or noncompliance; and

(B) remedy the defect or noncompliance under section 30120 of this title.

(c) NOTIFICATION BY MANUFACTURER.—A manufacturer of a motor vehicle or replacement equipment shall notify the Secretary by certified mail, and the owners, purchasers, and dealers of the vehicle or equipment as provided in section 30119(d) of this section, if the manufacturer—

(1) learns the vehicle or equipment contains a defect and decides in good faith that the defect is related to motor vehicle safety; or

(2) decides in good faith that the vehicle or equipment does not comply with an applicable motor vehicle safety standard prescribed under this chapter.

(d) EXEMPTIONS.—On application of a manufacturer, the Secretary shall exempt the manufacturer from this section if the Secretary decides a defect or noncompliance is inconsequential to motor vehicle safety. The Secretary may take action under this subsection only after notice in the Federal Register and an opportunity for any interested person to present information, views, and arguments.

(e) HEARINGS ABOUT MEETING NOTIFICATION REQUIREMENTS.—On the motion of the Secretary or on petition of any interested person, the Sec-

retary may conduct a hearing to decide whether the manufacturer has reasonably met the notification requirements under this section. Any interested person may make written and oral presentations of information, views, and arguments on whether the manufacturer has reasonably met the notification requirements. If the Secretary decides that the manufacturer has not reasonably met the notification requirements, the Secretary shall order the manufacturer to take specified action to meet those requirements and may take any other action authorized under this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 950.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30118(a)	15:1397(a)(1)(D) (related to 15:1412(a) (1st–3d sentences)).	Sept. 9, 1966, Pub. L. 89–563, § 108(a)(1)(D) (related to §§ 151, 152, 153(c) (1st sentence cl. (6)), 156, 157), 80 Stat. 722; restated Oct. 27, 1974, Pub. L. 93–492, § 103(a)(1)(A), (3), 88 Stat. 1477, 1478.
	15:1412(a) (1st–3d sentences).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §§ 151, 152, 156 (related to notice), 157 (related to notice); added Oct. 27, 1974, Pub. L. 93–492, § 102(a), 88 Stat. 1470, 1475.
30118(b)	15:1397(a)(1)(D) (related to 15:1412(a) (last sentence), (b)).	
	15:1412(a) (last sentence), (b).	
30118(c)	15:1397(a)(1)(D) (related to 15:1411, 1413(c) (1st sentence cl. (6))).	
	15:1411.	
	15:1413(c) (1st sentence cl. (6)).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 153(c) (1st sentence cl. (6)); added Oct. 27, 1974, Pub. L. 93–492, § 102(a), 88 Stat. 1472; Oct. 15, 1982, Pub. L. 97–331, § 4(b)(2), 96 Stat. 1620.
30118(d)	15:1397(a)(1)(D) (related to 15:1417).	
	15:1417 (related to notice).	
30118(e)	15:1397(a)(1)(D) (related to 15:1416).	
	15:1416 (related to notice).	

In this section, the text of 15:1397(a)(1)(D) (related to 15:1411, 1412, 1413(c) (1st sentence cl. (6)), and 1417) is omitted as surplus.

In subsection (a), the words ''making an initial decision'' are substituted for ''determines'' to distinguish the decision from the decision made under subsection (b) of this section. The words ''of such determination'', ''to the manufacturer'', and ''of the Secretary'' are omitted as surplus. The words ''under this subsection'' are added for clarity.

In subsection (b)(1), the words ''may make a final decision'' are substituted for ''determines'', and the words ''prescribed under this chapter'' are added, for clarity and consistency in this chapter.

In subsection (b)(2), before clause (A), the words ''If the Secretary decides under paragraph (1) of this subsection that the vehicle or equipment contains a defect or does not comply'' are added for clarity and because of the restatement. The words ''after such presentations by the manufacturer and interested persons'' are omitted as surplus. In clause (A), the words ''of the defect or noncompliance'' are added for clarity.

In subsection (c), before clause (1), the words ''A manufacturer of a motor vehicle or replacement equipment'' are substituted for ''manufactured by him'' in 15:1411 for clarity. The words ''shall notify'' are substituted for ''he shall furnish notification to'' to eliminate unnecessary words. The words ''to the Secretary, if section 1411 of this title applies'' in 15:1413(c) (1st sentence cl. (6)) are omitted because of the restatement. The words ''of the vehicle or equipment'' are added for clarity. The words ''and he shall remedy the defect or failure to comply in accordance with section 1414 of this title'' in 15:1411 are omitted as unnecessary because of the source provisions restated in section 30120 of the revised title.

In subsection (d), the words ''any requirement under'', ''to give notice with respect to'', and ''as it relates'' are omitted as surplus. The words ''The Secretary may take action under this subsection only'' are added because of the restatement.

In subsection (e), the words ''(including a manufacturer)'' are omitted as surplus. The word ''information'' is substituted for ''data'' for consistency in the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30102, 30103, 30117, 30119, 30120, 30121, 30141, 30146, 30147, 30162, 30163, 30165, 30167 of this title.

§ 30119. Notification procedures

(a) CONTENTS OF NOTIFICATION.—Notification by a manufacturer required under section 30118 of this title of a defect or noncompliance shall contain—

(1) a clear description of the defect or noncompliance;

(2) an evaluation of the risk to motor vehicle safety reasonably related to the defect or noncompliance;

(3) the measures to be taken to obtain a remedy of the defect or noncompliance;

(4) a statement that the manufacturer giving notice will remedy the defect or noncompliance without charge under section 30120 of this title;

(5) the earliest date on which the defect or noncompliance will be remedied without charge, and for tires, the period during which the defect or noncompliance will be remedied without charge under section 30120 of this title;

(6) the procedure the recipient of a notice is to follow to inform the Secretary of Transportation when a manufacturer, distributor, or dealer does not remedy the defect or noncompliance without charge under section 30120 of this title; and

(7) other information the Secretary prescribes by regulation.

(b) EARLIEST REMEDY DATE.—The date specified by a manufacturer in a notification under subsection (a)(5) of this section or section 30121(c)(2) of this title is the earliest date that parts and facilities reasonably can be expected to be available to remedy the defect or noncompliance. The Secretary may disapprove the date.

(c) TIME FOR NOTIFICATION.—Notification required under section 30118 of this title shall be given within a reasonable time—

(1) prescribed by the Secretary, after the manufacturer receives notice of a final decision under section 30118(b) of this title; or

(2) after the manufacturer first decides that a safety-related defect or noncompliance exists under section 30118(c) of this title.

(d) MEANS OF PROVIDING NOTIFICATION.—(1) Notification required under section 30118 of this

title about a motor vehicle shall be sent by first class mail—

(A) to each person registered under State law as the owner and whose name and address are reasonably ascertainable by the manufacturer through State records or other available sources; or

(B) if a registered owner is not notified under clause (A) of this paragraph, to the most recent purchaser known to the manufacturer.

(2) Notification required under section 30118 of this title about replacement equipment (except a tire) shall be sent by first class mail to the most recent purchaser known to the manufacturer. In addition, if the Secretary decides that public notice is required for motor vehicle safety, public notice shall be given in the way required by the Secretary after consulting with the manufacturer.

(3) Notification required under section 30118 of this title about a tire shall be sent by first class mail (or, if the manufacturer prefers, by certified mail) to the most recent purchaser known to the manufacturer. In addition, if the Secretary decides that public notice is required for motor vehicle safety, public notice shall be given in the way required by the Secretary after consulting with the manufacturer. In deciding whether public notice is required, the Secretary shall consider—

(A) the magnitude of the risk to motor vehicle safety caused by the defect or noncompliance; and

(B) the cost of public notice compared to the additional number of owners the notice may reach.

(4) A dealer to whom a motor vehicle or replacement equipment was delivered shall be notified by certified mail or quicker means if available.

(e) SECOND NOTIFICATION.—If the Secretary decides that a notification sent by a manufacturer under this section has not resulted in an adequate number of motor vehicles or items of replacement equipment being returned for remedy, the Secretary may order the manufacturer to send a 2d notification in the way the Secretary prescribes by regulation.

(f) NOTIFICATION BY LESSOR TO LESSEE.—(1) In this subsection, ''leased motor vehicle'' means a motor vehicle that is leased to a person for at least 4 months by a lessor that has leased at least 5 motor vehicles in the 12 months before the date of the notification.

(2) A lessor that receives a notification required by section 30118 of this title about a leased motor vehicle shall provide a copy of the notification to the lessee in the way the Secretary prescribes by regulation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 951.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30119(a)	15:1397(a)(1)(D) (related to 15:1413(a)).	Sept. 9, 1966, Pub. L. 89–563, § 108(a)(1)(D) (related to §§ 153(a)–(c) (1st sentence cls. (1)–(5), last sentence), 154(b)(2) (2d, last sentences)), 80 Stat. 722; restated Oct. 27, 1974, Pub. L. 93–492, § 103(a)(1)(A), (3), 88 Stat. 1477, 1478.
	15:1413(a).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §§ 153(a), (b), 154(b)(2) (2d, last sentences); added Oct. 27, 1974, Pub. L. 93–492, § 102(a), 88 Stat. 1471, 1473.
30119(b)	15:1397(a)(1)(D) (related to 15:1414(b)(2) (2d, last sentences)).	
	15:1414(b)(2) (2d, last sentences).	
30119(c)	15:1397(a)(1)(D) (related to 15:1413(b)).	
	15:1413(b).	
30119(d)	15:1397(a)(1)(D) (related to 15:1413(c) (1st sentence cls. (1)–(5), last sentence).	
	15:1413(c) (1st sentence cls. (1)–(5), last sentence).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 153(c) (1st sentence cls. (1)–(5), last sentence); added Oct. 27, 1974, Pub. L. 93–492, § 102(a), 88 Stat. 1471, 1472; Oct. 15, 1982, Pub. L. 97–331, § 4(b), 96 Stat. 1620.
30119(e)	15:1413(d).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 153(d), (e); added Dec. 18, 1991, Pub. L. 102–240, § 2504(a), 105 Stat. 2083.
30119(f)	15:1413(e).	

In this section, the text of 15:1397(a)(1)(D) (related to 15:1413(a)–(c) (1st sentence cls. (1)–(5), last sentence), 1414(b)(2) (2d, last sentences), and 1416) is omitted as surplus.

In subsection (a), before clause (1), the words ''a motor vehicle or item of replacement equipment'' are omitted as surplus. The words ''by a manufacturer'' are added for clarity. In clause (3), the words ''a statement of'' are omitted as surplus. In clause (4), the word ''remedy'' is substituted for ''cause . . . to be remedied'' to eliminate unnecessary words. In clause (5), the words ''(specified in accordance with the second and third sentences of section 1414(b)(2) of this title)'' are omitted as surplus. In clause (6), the words ''a description of'' are omitted as surplus. The words ''under section 30120 of this title'' are added for consistency with the source provisions restated in this subsection. In clause (7), the words ''in addition to such . . . as'' are omitted as surplus.

In subsection (b), the words ''in a notification under subsection (a)(5) of this section or section 30121(c) of this title'' are substituted for ''In either case'' because of the restatement. The words ''may disapprove'' are substituted for ''shall be subject to disapproval by'' to eliminate unnecessary words.

In subsection (c)(1), the words ''Secretary's'' and ''that there is a defect or failure to comply'' are omitted as surplus. The word ''final'' is added for clarity.

In subsection (c)(2), the words ''decides that a safety-related defect or noncompliance exists'' are substituted for ''makes a determination with respect to a defect or failure to comply'' for clarity.

In subsection (d), the text of 15:1413(c) (1st sentence words before cl. (1)) is incorporated into each paragraph as appropriate.

In subsection (d)(1)(A), the words ''who is'' and ''of such vehicle'' are omitted as surplus.

In subsection (d)(1)(B), the words ''if a registered owner is not notified'' are substituted for ''unless the registered owner (if any) of such vehicle was notified'' for clarity. The words ''most recent purchaser'' are substituted for ''first purchaser (or if a more recent purchaser is'' for clarity and to eliminate unnecessary words. The words ''of each such vehicle containing such defect or failure to comply'' are omitted as surplus.

In subsection (d)(3), the words ''(or, if the manufacturer prefers, by certified mail)'' are substituted for 15:1413(c) (last sentence) to eliminate unnecessary words.

In subsection (d)(4), the words ''or dealers'' are omitted because of 1:1. The words ''of such manufacturer'' are omitted as surplus.

In subsection (e), the word ''replacement'' is added for clarity and consistency with the source provisions being restated in subsection (d) of this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30102, 30103, 30117, 30118, 30120, 30121, 30141, 30147, 30165, 30167 of this title.

§ 30120. Remedies for defects and noncompliance

(a) WAYS TO REMEDY.—(1) Subject to subsections (f) and (g) of this section, when notification of a defect or noncompliance is required under section 30118(b) or (c) of this title, the manufacturer of the defective or noncomplying motor vehicle or replacement equipment shall remedy the defect or noncompliance without charge when the vehicle or equipment is presented for remedy. Subject to subsections (b) and (c) of this section, the manufacturer shall remedy the defect or noncompliance in any of the following ways the manufacturer chooses:

(A) if a vehicle—

(i) by repairing the vehicle;

(ii) by replacing the vehicle with an identical or reasonably equivalent vehicle; or

(iii) by refunding the purchase price, less a reasonable allowance for depreciation.

(B) if replacement equipment, by repairing the equipment or replacing the equipment with identical or reasonably equivalent equipment.

(2) The Secretary of Transportation may prescribe regulations to allow the manufacturer to impose conditions on the replacement of a motor vehicle or refund of its price.

(b) TIRE REMEDIES.—(1) A manufacturer of a tire, including an original equipment tire, shall remedy a defective or noncomplying tire if the owner or purchaser presents the tire for remedy not later than 60 days after the later of—

(A) the day the owner or purchaser receives notification under section 30119 of this title; or

(B) if the manufacturer decides to replace the tire, the day the owner or purchaser receives notification that a replacement is available.

(2) If the manufacturer decides to replace the tire and the replacement is not available during the 60-day period, the owner or purchaser must present the tire for remedy during a subsequent 60-day period that begins only after the owner or purchaser receives notification that a replacement will be available during the subsequent period. If tires are available during the subsequent period, only a tire presented for remedy during that period must be remedied.

(c) ADEQUACY OF REPAIRS.—(1) If a manufacturer decides to repair a defective or noncomplying motor vehicle or replacement equipment and the repair is not done adequately within a reasonable time, the manufacturer shall—

(A) replace the vehicle or equipment without charge with an identical or reasonably equivalent vehicle or equipment; or

(B) for a vehicle, refund the purchase price, less a reasonable allowance for depreciation.

(2) Failure to repair a motor vehicle or replacement equipment adequately not later than 60 days after its presentation is prima facie evidence of failure to repair within a reasonable time. However, the Secretary may extend, by order, the 60-day period if good cause for an extension is shown and the reason is published in the Federal Register before the period ends. Presentation of a vehicle or equipment for repair before the date specified by a manufacturer in a notice under section 30119(a)(5) or 30121(c)(2) of this title is not a presentation under this subsection.

(d) FILING MANUFACTURER'S REMEDY PROGRAM.—A manufacturer shall file with the Secretary a copy of the manufacturer's program under this section for remedying a defect or noncompliance. The Secretary shall make the program available to the public and publish a notice of availability in the Federal Register.

(e) HEARINGS ABOUT MEETING REMEDY REQUIREMENTS.—On the motion of the Secretary or on application by any interested person, the Secretary may conduct a hearing to decide whether the manufacturer has reasonably met the remedy requirements under this section. Any interested person may make written and oral presentations of information, views, and arguments on whether the manufacturer has reasonably met the remedy requirements. If the Secretary decides a manufacturer has not reasonably met the remedy requirements, the Secretary shall order the manufacturer to take specified action to meet those requirements and may take any other action authorized under this chapter.

(f) FAIR REIMBURSEMENT TO DEALERS.—A manufacturer shall pay fair reimbursement to a dealer providing a remedy without charge under this section.

(g) NONAPPLICATION.—(1) The requirement that a remedy be provided without charge does not apply if the motor vehicle or replacement equipment was bought by the first purchaser more than 8 calendar years, or the tire, including an original equipment tire, was bought by the first purchaser more than 3 calendar years, before notice is given under section 30118(c) of this title or an order is issued under section 30118(b) of this title, whichever is earlier.

(2) This section does not apply during any period in which enforcement of an order under section 30118(b) of this title is restrained or the order is set aside in a civil action to which section 30121(d) of this title applies.

(h) EXEMPTIONS.—On application of a manufacturer, the Secretary shall exempt the manufacturer from this section if the Secretary decides a defect or noncompliance is inconsequential to motor vehicle safety. The Secretary may take action under this subsection only after notice in the Federal Register and an opportunity for any interested person to present information, views, and arguments.

(i) LIMITATION ON SALE OR LEASE.—(1) If notification is required by an order under section 30118(b) of this title or is required under section 30118(c) of this title and the manufacturer has provided to a dealer notification about a new motor vehicle or new item of replacement equipment in the dealer's possession at the time of

notification that contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter, the dealer may sell or lease the motor vehicle or item of replacement equipment only if—

(A) the defect or noncompliance is remedied as required by this section before delivery under the sale or lease; or

(B) when the notification is required by an order under section 30118(b) of this title, enforcement of the order is restrained or the order is set aside in a civil action to which section 30121(d) of this title applies.

(2) This subsection does not prohibit a dealer from offering for sale or lease the vehicle or equipment.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 952.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30120(a)	15:1397(a)(1)(D) (related to 15:1414(a)(1) (1st sentence), (2)).	Sept. 9, 1966, Pub. L. 89–563, §108(a)(1)(D) (related to §§154(a), (b)(1), (2) (1st sentence), (c), 156, 157), 80 Stat. 722; restated Oct. 27, 1974, Pub. L. 93–492, §103(a)(1)(A), (3), 88 Stat. 1477, 1478.
	15:1414(a)(1) (1st sentence), (2).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §§154(a), (b)(1), (2) (1st sentence), (c), 156 (related to remedy), 157 (related to remedy); added Oct. 27, 1974, Pub. L. 93–492, §102(a), 88 Stat. 1472, 1474, 1475.
30120(b)	15:1397(a)(1)(D) (related to 15:1414(a)(5)). 15:1414(a)(5).	
30120(c)	15:1397(a)(1)(D) (related to 15:1414(b)(1), (2) (1st sentence)). 15:1414(b)(1), (2) (1st sentence).	
30120(d)	15:1397(a)(1)(D) (related to 15:1414(c)). 15:1414(c).	
30120(e)	15:1397(a)(1)(D) (related to 15:1416). 15:1416 (related to remedy).	
30120(f)	15:1397(a)(1)(D) (related to 15:1414(a)(3)). 15:1414(a)(3).	
30120(g)(1) ..	15:1397(a)(1)(D) (related to 15:1414(a)(4)). 15:1414(a)(4).	
30120(g)(2) ..	15:1397(a)(1)(D) (related to 15:1414(a)(1) (last sentence)). 15:1414(a)(1) (last sentence).	
30120(h)	15:1397(a)(1)(D) (related to 15:1417). 15:1417 (related to remedy).	
30120(i)	15:1414(d).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §154(d); added Dec. 18, 1991, Pub. L. 102–240, §2504(b), 105 Stat. 2083.

In this section, the text of 15:1397(a)(1)(D) (related to 15:1414(a), (b)(1), (2) (1st sentence), and (c), and 1416) is omitted as surplus.

In subsection (a)(1), before clause (A), the words ''Subject to subsections (f) and (g) of this section'' are added for clarity. The words ''with an applicable Federal motor vehicle safety standard . . . which relates to motor vehicle safety'' and ''pursuant to such notification'' are omitted as surplus. The words ''shall remedy'' are substituted for ''shall cause such defect or failure to comply in such motor vehicle or such item of replacement equipment to be remedied'' to eliminate unnecessary words. The words ''the defect or noncompliance'' are added for clarity. In clauses (A) and (B), the words ''without charge'' are omitted as unnecessary because of the words ''without charge'' in this subsection before this clause (A). In clause (A), the words ''presented for remedy pursuant to such notification'' and ''of such motor vehicle in full'' are omitted as surplus.

Subsection (a)(2) is substituted for 15:1414(a)(2)(A) (last sentence) for clarity.

In subsection (b)(1), before clause (A), the words ''shall remedy a defective or noncomplying tire if'' are substituted for ''shall not be obligated to remedy such tire if such tire is not'' to eliminate unnecessary words and for consistency. The words ''pursuant to notification'' are omitted as surplus. In clause (B), the words ''decides to replace the tire'' are substituted for ''elects replacement'' for clarity.

Subsection (b)(2) is substituted for 15:1414(a)(5)(B) to eliminate unnecessary words.

In subsection (c)(1), the words before clause (A) are substituted for ''Whenever a manufacturer has elected under subsection (a) of this section to cause the repair of a defect in a motor vehicle or item of replacement equipment or of a failure of such vehicle or item of replacement equipment to comply with a motor vehicle safety standard, and he has failed to cause such defect or failure to comply to be adequately repaired within a reasonable time, then (A) he shall'' to eliminate unnecessary words. In clause (A), the word ''replace'' is substituted for ''cause . . . to be replaced'' for consistency. In clause (B), the word ''refund'' is substituted for ''shall cause . . . to be refunded'' for consistency. The words ''in full'' and ''and if the manufacturer so elects)'' are omitted as surplus.

In subsection (c)(2), the word ''presentation'' is substituted for ''tender'' for clarity. The words ''for repair'' are omitted as surplus. The last sentence is substituted for 15:1414(b)(2) (1st sentence) because of the restatement.

In subsection (e), the words ''(including a manufacturer)'' are omitted as surplus. The word ''information'' is substituted for ''data'' for consistency in the revised title.

In subsection (f), the word ''fair'' is substituted for ''fair and equitable'' to eliminate unnecessary words. The words ''for such remedy'' are omitted as surplus. The words ''providing a'' are substituted for ''who effects'' for consistency.

In subsection (g)(2), the words ''In the case of notification required by an order'' are omitted as unnecessary. The word ''civil'' is added because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (h), the words ''any requirement under'', ''or to remedy'', and ''as it relates'' are omitted as surplus. The words ''The Secretary may take action under this subsection only'' are added because of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30102, 30103, 30117, 30118, 30119, 30121, 30141, 30147, 30165, 30167 of this title.

§ 30121. Provisional notification and civil actions to enforce

(a) PROVISIONAL NOTIFICATION.—(1) The Secretary of Transportation may order a manufacturer to issue a provisional notification if a civil action about an order issued under section 30118(b) of this title has been brought under section 30163 of this title. The provisional notification shall contain—

(A) a statement that the Secretary has decided that a defect related to motor vehicle safety or noncompliance with a motor vehicle safety standard prescribed under this chapter

exists and that the manufacturer is contesting the decision in a civil action in a United States district court;

(B) a clear description of the Secretary's stated basis for the decision;

(C) the Secretary's evaluation of the risk to motor vehicle safety reasonably related to the defect or noncompliance;

(D) measures the Secretary considers necessary to avoid an unreasonable risk to motor vehicle safety resulting from the defect or noncompliance;

(E) a statement that the manufacturer will remedy the defect or noncompliance without charge under section 30120 of this title, but that the requirement to remedy without charge is conditioned on the outcome of the civil action; and

(F) other information the Secretary prescribes by regulation or includes in the order requiring the notice.

(2) A notification under this subsection does not relieve a manufacturer of liability for not giving notification required by an order under section 30118(b) of this title.

(b) CIVIL ACTIONS FOR NOT NOTIFYING.—(1) A manufacturer that does not notify owners and purchasers under section 30119(c) and (d) of this title is liable to the United States Government for a civil penalty, unless the manufacturer prevails in a civil action referred to in subsection (a) of this section or the court in that action enjoins enforcement of the order. Enforcement may be enjoined only if the court decides that the failure to notify is reasonable and that the manufacturer has demonstrated the likelihood of prevailing on the merits. If enforcement is enjoined, the manufacturer is not liable during the time the order is stayed.

(2) A manufacturer that does not notify owners and purchasers as required under subsection (a) of this section is liable for a civil penalty regardless of whether the manufacturer prevails in an action on the validity of the order issued under section 30118(b) of this title.

(c) ORDERS TO MANUFACTURERS.—If the Secretary prevails in a civil action referred to in subsection (a) of this section, the Secretary shall order the manufacturer—

(1) to notify each owner, purchaser, and dealer described in section 30119(d) of this title of the outcome of the action and other information the Secretary requires, and notification under this clause may be combined with notification required under section 30118(b) of this title;

(2) to specify the earliest date under section 30119(b) of this title on which the defect or noncompliance will be remedied without charge under section 30120 of this title; and

(3) if notification was required under subsection (a) of this section, to reimburse an owner or purchaser for reasonable and necessary expenses (in an amount that is not more than the amount specified in the order of the Secretary under subsection (a)) incurred for repairing the defect or noncompliance during the period beginning on the date that notification was required to be issued and ending on the date the owner or purchaser receives the notification under this subsection.

(d) VENUE.—Notwithstanding section 30163(c) of this title, a civil action about an order issued under section 30118(b) of this title must be brought in the United States district court for a judicial district in the State in which the manufacturer is incorporated or the District of Columbia. On motion of a party, the court may transfer the action to another district court if good cause is shown. All actions related to the same order under section 30118(b) shall be consolidated in an action in one judicial district under an order of the court in which the first action was brought. If the first action is transferred to another court, that court shall issue the consolidation order.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 954.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30121(a)	15:1397(a)(1)(D) (related to 15:1415(b)).	Sept. 9, 1966, Pub. L. 89–563, § 108(a)(1)(D) (related to § 155), 80 Stat. 722; restated Oct. 27, 1974, Pub. L. 93–492, § 103(a)(1)(A), (3), 88 Stat. 1477, 1478.
	15:1415(b).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 155(b)–(d); added Oct. 27, 1974, Pub. L. 93–492, § 102(a), 88 Stat. 1474.
30121(b)	15:1397(a)(1)(D) (related to 15:1415(c)).	
	15:1415(c).	
30121(c)	15:1397(a)(1)(D) (related to 15:1415(d)).	
	15:1415(d).	
30121(d)	15:1397(a)(1)(D) (related to 15:1415(a)).	
	15:1415(a).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 155(a); added Oct. 27, 1974, Pub. L. 93–492, § 102(a), 88 Stat. 1474; Nov. 8, 1984, Pub. L. 98–620, § 402(17), 98 Stat. 3358.

In this section, the text of 15:1397(a)(1)(D) (related to 15:1415) is omitted as surplus.

In subsection (a)(1), before clause (A), the words ''and to which subsection (a) of this section applies'' are omitted because of the restatement. In clause (A), the words ''prescribed under this chapter'' are substituted for ''Federal'', and the words ''civil action'' are substituted for ''proceeding'', for consistency. In clause (B), the words ''that there is such a defect or failure'' are omitted as surplus. In clause (D), the word ''considers'' is substituted for ''which in the judgment of . . . are'' to eliminate unnecessary words. In clause (E), the word ''remedy'' is substituted for ''cause . . . to be remedied'' to eliminate unnecessary words. The words ''civil action'' are substituted for ''court proceeding'' for consistency.

In subsection (b)(1), the words ''with respect to such failure to notify'' are omitted as surplus. The word ''enjoins'' is substituted for ''restrains'' for consistency. The words ''of such an order'' and ''for which the effectiveness of'' are omitted as surplus.

In subsection (b)(2), the words ''by an order'', ''or not'', and ''(to which subsection (a) of the section applies)'' are omitted as surplus.

In subsection (c), before clause (1), the words ''a civil action referred to in subsection (a) of this section'' are substituted for ''(i) a manufacturer fails within the period specified in section 1413(b) of this title to comply with an order under section 1412(b) of this title to afford notification to owners and purchasers, (ii) a civil action to which subsection (a) of this section applies is commenced with respect to such order, and (iii) . . . in such action'' to eliminate unnecessary words. In clause (1), the word ''action'' is substituted for ''proceeding''

for consistency. The words ''containing'' and ''by an order'' are omitted as surplus. In clause (2), the words ''under section 30119(b) of this title'' are substituted for ''(in accordance with the second and third sentences of section 1414(b) of this title)'' for clarity. The words ''under section 30120 of this title'' are added for clarity. In clause (3), the words ''which are . . . by such owner or purchaser'', ''the purpose of'', and ''to which the order relates'' are omitted as surplus.

In subsection (d), the words ''Notwithstanding section 30163(c) of this title'' are added for clarity. The words ''An action under section 1399(a) of this title to restrain a violation of an order . . . or under section 1398 of this title to collect a civil penalty with respect to a violation of such an order'' and ''to which the order applies'' are omitted as surplus. The words ''may transfer the action'' are substituted for ''orders a change of venue'' for consistency with 28:1404. The words ''(including enforcement actions)'' are omitted as surplus. The words ''that court shall issue the consolidation order'' are substituted for ''by order of such other court'' for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30102, 30103, 30117, 30119, 30120, 30141, 30147, 30163, 30165, 30167 of this title.

§ 30122. Making safety devices and elements inoperative

(a) DEFINITION.—In this section, ''motor vehicle repair business'' means a person holding itself out to the public to repair for compensation a motor vehicle or motor vehicle equipment.

(b) PROHIBITION.—A manufacturer, distributor, dealer, or motor vehicle repair business may not knowingly make inoperative any part of a device or element of design installed on or in a motor vehicle or motor vehicle equipment in compliance with an applicable motor vehicle safety standard prescribed under this chapter unless the manufacturer, distributor, dealer, or repair business reasonably believes the vehicle or equipment will not be used (except for testing or a similar purpose during maintenance or repair) when the device or element is inoperative.

(c) REGULATIONS.—The Secretary of Transportation may prescribe regulations—

(1) to exempt a person from this section if the Secretary decides the exemption is consistent with motor vehicle safety and section 30101 of this title; and

(2) to define ''make inoperative''.

(d) NONAPPLICATION.—This section does not apply to a safety belt interlock or buzzer designed to indicate a safety belt is not in use as described in section 30124 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 956.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30122(a)	15:1397(a)(2)(A) (last sentence).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 108(a)(2)(A)–(C); added Oct. 27, 1974, Pub. L. 93–492, § 103(a)(1)(A), 88 Stat. 1477.
30122(b)	15:1397(a)(2)(A) (1st sentence).	
30122(c)	15:1397(a)(2)(B).	
30122(d)	15:1397(a)(2)(C).	

In subsections (a) and (c), the words ''the term'' are omitted as surplus.

In subsection (a), the words ''in the business of'' are omitted as surplus.

In subsection (b), the words ''an applicable motor vehicle safety standard prescribed under this chapter'' are substituted for ''an applicable Federal motor vehicle safety standard'' for consistency. The words ''of design'' the 2d time they appear and ''rendered'' are omitted as surplus.

In subsection (c)(1), the words ''section 30101 of this title'' are substituted for ''the purposes of this chapter'' as being more precise.

In subsection (d), the words ''with respect . . . the rendering inoperative of'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30141, 30165 of this title.

§ 30123. Tires

(a) LABELING REQUIREMENT.—The Secretary of Transportation shall require that a pneumatic tire subject to a motor vehicle safety standard prescribed under this chapter be labeled permanently and conspicuously with safety information the Secretary decides is necessary to carry out section 30101 of this title.

(b) CONTENTS OF LABEL.—Labeling required on a tire under subsection (a) of this section shall include—

(1)(A) identification of the manufacturer;

(B) for a retreaded tire, identification of the retreader; or

(C) for a tire containing a brand name (other than the name of the manufacturer), a code mark allowing a seller to identify the manufacturer to the purchaser;

(2) the composition of material used in the ply of the tire;

(3) the number of plies in the tire;

(4) the maximum allowable load for the tire; and

(5)(A) a statement that the tire complies with minimum safe performance standards prescribed under this chapter; or

(B) a mark or symbol the Secretary prescribes for use by a manufacturer or retreader complying with those standards.

(c) ADDITIONAL INFORMATION.—The Secretary may require that additional safety information be disclosed to a purchaser when a tire is sold.

(d) REGROOVED TIRE LIMITATIONS.—(1) In this subsection, ''regrooved tire'' means a tire with a new tread produced by cutting into the tread of a worn tire.

(2) The Secretary may authorize the sale, offer for sale, introduction for sale, or delivery for introduction in interstate commerce, of a regrooved tire or a motor vehicle equipped with regrooved tires if the Secretary decides the tires are designed and made in a way consistent with section 30101 of this title. A person may not sell, offer for sale, introduce for sale, or deliver for introduction in interstate commerce, a regrooved tire or a vehicle equipped with regrooved tires unless authorized by the Secretary.

(e) UNIFORM QUALITY GRADING SYSTEM, NOMENCLATURE, AND MARKETING PRACTICES.—The Secretary shall prescribe through standards a uniform quality grading system for motor vehicle tires to help consumers make an informed choice when purchasing tires. The Secretary also shall cooperate with industry and the Federal Trade Commission to the greatest extent

practicable to eliminate deceptive and confusing tire nomenclature and marketing practices. A tire standard or regulation prescribed under this chapter supersedes an order or administrative interpretation of the Commission.

(f) MAXIMUM LOAD STANDARDS.—The Secretary shall require a motor vehicle to be equipped with tires that meet maximum load standards when the vehicle is loaded with a reasonable amount of luggage and the total number of passengers the vehicle is designed to carry. The vehicle shall be equipped with those tires by the manufacturer or by the first purchaser when the vehicle is first bought in good faith other than for resale.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 956.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30123(a)	15:1421 (1st sentence).	Sept. 9, 1966, Pub. L. 89–563, §§ 201–203, 204(c), 205, 80 Stat. 728, 729.
30123(b)	15:1421 (2d sentence).	
30123(c)	15:1421 (last sentence).	
30123(d)	15:1424(a).	Sept. 9, 1966, Pub. L. 89–563, § 204(a), 80 Stat. 729; restated Oct. 27, 1974, Pub. L. 93–492, § 110(c), 88 Stat. 1484.
	15:1424(c).	
30123(e)	15:1423.	
	15:1425.	
30123(f)	15:1422.	

In subsections (a) and (d)(2), the words ''section 30101 of this title'' are substituted for ''the purposes of this chapter'' as being more precise.

In subsection (a), the words ''to a motor vehicle safety standard prescribed under this chapter'' are substituted for ''In all standards for . . . established under subchapter I of this chapter . . . thereto'' for consistency and because of the restatement.

In subsection (b)(1)(A) and (B), the word ''suitable'' is omitted as surplus.

In subsection (b)(1)(C), the words ''for a tire containing'' are substituted for ''unless the tire contains . . . in which case it shall also contain'' to eliminate unnecessary words. The word ''allowing'' is substituted for ''which would permit'' for consistency.

In subsection (b)(3), the word ''actual'' is omitted as surplus.

In subsection (b)(5)(A), the word ''statement'' is substituted for ''recital'' for clarity. The words ''complies with'' are substituted for ''conforms to'', the words ''prescribed under this chapter'' are substituted for ''Federal'', and the word ''or'' is substituted for ''except that in lieu of such recital'', for consistency.

In subsection (b)(5)(B), the word ''appropriate'' is omitted as surplus.

In subsection (d)(2), the words ''by order'' are omitted as surplus. The words ''a regrooved tire or a motor vehicle equipped with regrooved tires'' are substituted for ''any tire or motor vehicle equipped with any tire which has been regrooved'' for consistency. The words ''A person may not . . . unless authorized by the Secretary'' are substituted for ''No person shall'' for clarity and consistency in the revised title. The word ''introduce'' is substituted for ''introduction'' after ''or'' to correct a mistake.

In subsection (e), the words ''The Secretary shall prescribe through standards'' are substituted for ''within two years after September 9, 1966, the Secretary shall, through standards established under subchapter I of this chapter, prescribe by order, and publish in the Federal Register'' in 15:1423 to eliminate unnecessary and executed words. The text of 15:1423 (2d sentence) is omitted as executed. The last sentence is substituted for 15:1425 to eliminate unnecessary words.

In subsection (f), the words ''In standards established under subchapter I of this chapter'' and ''fully'' are omitted as surplus. The words ''The vehicle shall be equipped'' are added for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 30165 of this title.

§ 30124. Buzzers indicating nonuse of safety belts

A motor vehicle safety standard prescribed under this chapter may not require or allow a manufacturer to comply with the standard by using a safety belt interlock designed to prevent starting or operating a motor vehicle if an occupant is not using a safety belt or a buzzer designed to indicate a safety belt is not in use, except a buzzer that operates only during the 8-second period after the ignition is turned to the ''start'' or ''on'' position.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 957.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30124	15:1410b.	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 125; added Oct. 27, 1974, Pub. L. 93–492, § 109, 88 Stat. 1482.

The text of 15:1410b(a) and (c)–(e) is omitted as obsolete. The text of 15:1410b(b)(2) and (3) and (f)(2) and (3) is omitted as unnecessary because of the restatement. The words ''After the effective date of the amendment prescribed under subsection (a) of this section'' are omitted as executed. The words ''prescribed under this chapter'' are substituted for ''Federal'' for consistency in this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 30122 of this title.

§ 30125. Schoolbuses and schoolbus equipment

(a) DEFINITIONS.—In this section—

(1) ''schoolbus'' means a passenger motor vehicle designed to carry a driver and more than 10 passengers, that the Secretary of Transportation decides is likely to be used significantly to transport preprimary, primary, and secondary school students to or from school or an event related to school.

(2) ''schoolbus equipment'' means equipment designed primarily for a schoolbus or manufactured or sold to replace or improve a system, part, or component of a schoolbus or as an accessory or addition to a schoolbus.

(b) STANDARDS.—The Secretary shall prescribe motor vehicle safety standards for schoolbuses and schoolbus equipment manufactured in, or imported into, the United States. Standards shall include minimum performance requirements for—

(1) emergency exits;

(2) interior protection for occupants;

(3) floor strength;

(4) seating systems;

(5) crashworthiness of body and frame (including protection against rollover hazards);

(6) vehicle operating systems;

(7) windows and windshields; and

(8) fuel systems.

(c) TEST DRIVING BY MANUFACTURERS.—The Secretary may require by regulation a schoolbus to be test-driven by a manufacturer before introduction in commerce.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 957.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30125(a)	15:1391(14), (15).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 102(14), (15); added Oct. 27, 1974, Pub. L. 93–492, § 201, 88 Stat. 1484.
30125(b)	15:1392(i)(1).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 103(i)(1), (2); added Oct. 27, 1974, Pub. L. 93–492, § 202, 88 Stat. 1484; July 8, 1976, Pub. L. 94–346, § 2, 90 Stat. 815.
30125(c)	15:1392(i)(2). 15:1397(a)(1)(F).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 108(a)(1)(F); added Oct. 27, 1974, Pub. L. 93–492, § 203, 88 Stat. 1485.

In subsection (a)(1), the words ''the purpose of'' are omitted as surplus.

In subsection (a)(2), the words ''any similar part or component'' are omitted as surplus.

In subsection (b), before clause (1), the text of 15:1392(i)(1)(A) (1st sentence) and (B) (words before 2d comma) is omitted as executed. The word ''prescribe'' is substituted for ''promulgate'', and the word ''Federal'' is omitted, for consistency. The words ''Such proposed standards'' and ''those aspects of performance set out in clauses (i) through (viii) of subparagraph (A) of this paragraph'' are omitted because of the restatement. The word ''requirements'' is substituted for ''standards'' to avoid using ''standards'' in 2 different ways. The text of 15:1392(i)(1)(B) (last 6 words) is omitted as executed.

In subsection (c), the text of 15:1397(a)(1)(F) is omitted as unnecessary because of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30141, 30165, 31136 of this title.

§ 30126. Used motor vehicles

To ensure a continuing and effective national safety program, it is the policy of the United States Government to encourage and strengthen State inspection of used motor vehicles. Therefore, the Secretary of Transportation shall prescribe uniform motor vehicle safety standards applicable to all used motor vehicles. The standards shall be stated in terms of motor vehicle safety performance.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 958.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30126	15:1397(b)(1) (2d–last sentences).	Sept. 9, 1966, Pub. L. 89–563, § 108(b)(1) (2d–last sentences), 80 Stat. 722.

The words ''In order'' are omitted as surplus. The words ''United States Government'' are substituted for ''Congress'' for clarity and consistency in the revised title. The words ''Therefore, the Secretary of Transportation shall prescribe uniform motor vehicle safety standards applicable to all used motor vehicles'' are substituted for 15:1397(b)(1) (4th sentence) to eliminate unnecessary and executed words. The text of 15:1397(b)(1) (last sentence) is omitted as unnecessary because of 5:ch. 5, subch. II. The text of 15:1397(b)(1) (3d sentence) is omitted as executed.

§ 30127. Automatic occupant crash protection and seat belt use

(a) DEFINITIONS.—In this section—

(1) ''bus'' means a motor vehicle with motive power (except a trailer) designed to carry more than 10 individuals.

(2) ''multipurpose passenger vehicle'' means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed either on a truck chassis or with special features for occasional off-road operation.

(3) ''passenger car'' means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

(4) ''truck'' means a motor vehicle with motive power (except a trailer) designed primarily to transport property or special purpose equipment.

(b) INFLATABLE RESTRAINT REQUIREMENTS.—(1) Not later than September 1, 1993, the Secretary of Transportation shall prescribe under this chapter an amendment to Federal Motor Vehicle Safety Standard 208 issued under the National Traffic and Motor Vehicle Safety Act of 1966. The amendment shall require that the automatic occupant crash protection system for both of the front outboard seating positions for each of the following vehicles be an inflatable restraint (with lap and shoulder belts) complying with the occupant protection requirements under section 4.1.2.1 of Standard 208:

(A) 95 percent of each manufacturer's annual production of passenger cars manufactured after August 31, 1996, and before September 1, 1997.

(B) 80 percent of each manufacturer's annual production of buses, multipurpose passenger vehicles, and trucks (except walk-in van-type trucks and vehicles designed to be sold only to the United States Postal Service) with a gross vehicle weight rating of not more than 8,500 pounds and an unloaded vehicle weight of not more than 5,500 pounds manufactured after August 31, 1997, and before September 1, 1998.

(C) 100 percent of each manufacturer's annual production of passenger cars manufactured after August 31, 1997.

(D) 100 percent of each manufacturer's annual production of vehicles described in clause (B) of this paragraph manufactured after August 31, 1998.

(2) Manufacturers may not use credits and incentives available before September 1, 1998, under the provisions of Standard 208 (as amended by this section) to comply with the requirements of paragraph (1)(D) of this subsection after August 31, 1998.

(c) OWNER MANUAL REQUIREMENTS.—In amending Standard 208, the Secretary of Transportation shall require, to be effective as soon as possible after the amendment is prescribed, that owner manuals for passenger cars, buses, multipurpose passenger vehicles, and trucks equipped with an inflatable restraint include a statement in an easily understandable format stating that—

(1) either or both of the front outboard seating positions of the vehicle are equipped with

an inflatable restraint referred to as an ''airbag'' and a lap and shoulder belt;

(2) the ''airbag'' is a supplemental restraint and is not a substitute for lap and shoulder belts;

(3) lap and shoulder belts also must be used correctly by an occupant in a front outboard seating position to provide restraint or protection from frontal crashes as well as other types of crashes or accidents; and

(4) occupants should always wear their lap and shoulder belts, if available, or other safety belts, whether or not there is an inflatable restraint.

(d) SEAT BELT USE LAWS.—Congress finds that it is in the public interest for each State to adopt and enforce mandatory seat belt use laws and for the United States Government to adopt and enforce mandatory seat belt use regulations.

(e) TEMPORARY EXEMPTIONS.—(1) On application of a manufacturer, the Secretary of Transportation may exempt, on a temporary basis, motor vehicles of that manufacturer from any requirement under subsections (b) and (c) of this section on terms the Secretary considers appropriate. An exemption may be renewed.

(2) The Secretary of Transportation may grant an exemption under paragraph (1) of this subsection if the Secretary finds that there has been a disruption in the supply of any component of an inflatable restraint or in the use and installation of that component by the manufacturer because of an unavoidable event not under the control of the manufacturer that will prevent the manufacturer from meeting its anticipated production volume of vehicles with those restraints.

(3) Only an affected manufacturer may apply for an exemption. The Secretary of Transportation shall prescribe in the amendment to Standard 208 required under this section the information an affected manufacturer must include in its application under this subsection. The manufacturer shall specify in the application the models, lines, and types of vehicles affected. The Secretary may consolidate similar applications from different manufacturers.

(4) An exemption or renewal of an exemption is conditioned on the commitment of the manufacturer to recall the exempted vehicles for installation of the omitted inflatable restraints within a reasonable time that the manufacturer proposes and the Secretary of Transportation approves after the components become available in sufficient quantities to satisfy both anticipated production and recall volume requirements.

(5) The Secretary of Transportation shall publish in the Federal Register a notice of each application under this subsection and each decision to grant or deny a temporary exemption and the reasons for the decision.

(6) The Secretary of Transportation shall require a label for each exempted vehicle that can be removed only after recall and installation of the required inflatable restraint. The Secretary shall require that written notice of the exemption be provided to the dealer and the first purchaser of each exempted vehicle other than for resale, with the notice being provided in a way, and containing the information, the Secretary considers appropriate.

(f) APPLICATION.—(1) This section revises, but does not replace, Standard 208 as in effect on December 18, 1991, including the amendment of March 26, 1991 (56 Fed. Reg. 12472), to Standard 208, extending the requirements for automatic crash protection, with incentives for more innovative automatic crash protection, to trucks, buses, and multipurpose passenger vehicles. This section may not be construed as—

(A) affecting another provision of law carried out by the Secretary of Transportation applicable to passenger cars, buses, multipurpose passenger vehicles, or trucks; or

(B) establishing a precedent related to developing or prescribing a Government motor vehicle safety standard.

(2) This section and amendments to Standard 208 made under this section may not be construed as indicating an intention by Congress to affect any liability of a motor vehicle manufacturer under applicable law related to vehicles with or without inflatable restraints.

(g) REPORT.—(1) On October 1, 1992, and every 6 months after that date through October 1, 2000, the Secretary of Transportation shall submit reports on the effectiveness of occupant restraint systems expressed as a percentage reduction in fatalities or injuries of restrained occupants compared to unrestrained occupants for—

(A) a combination of inflated restraints and lap and shoulder belts;

(B) inflated restraints only; and

(C) lap and shoulder belts only.

(2) In consultation with the Secretaries of Labor and Defense, the Secretary of Transportation also shall provide information and analysis on lap and shoulder belt use, nationally and in each State by—

(A) military personnel;

(B) Government, State, and local law enforcement officers;

(C) other Government and State employees; and

(D) the public.

(h) AIRBAGS FOR GOVERNMENT CARS.—In cooperation with the Administrator of General Services and the heads of appropriate departments, agencies, and instrumentalities of the Government, the Secretary of Transportation shall establish a program, consistent with applicable procurement laws of the Government and available appropriations, requiring that all passenger cars acquired—

(1) after September 30, 1994, for use by the Government be equipped, to the maximum extent practicable, with driver-side inflatable restraints; and

(2) after September 30, 1996, for use by the Government be equipped, to the maximum extent practicable, with inflatable restraints for both front outboard seating positions.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 958.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30127(a)	15:1392 (note).	Dec. 18, 1991, Pub. L. 102–240, § 2502(a), 105 Stat. 2081.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30127(b)	15:1392 (note).	Dec. 18, 1991, Pub. L. 102–240, § 2508(a)(1) (1st sentence), (b), 105 Stat. 2084, 2085.
30127(c)	15:1392 (note).	Dec. 18, 1991, Pub. L. 102–240, § 2508(a)(2), 105 Stat. 2085.
30127(d)	15:1392 (note).	Dec. 18, 1991, Pub. L. 102–240, § 2508(a)(3), 105 Stat. 2085.
30127(e)	15:1392 (note).	Dec. 18, 1991, Pub. L. 102–240, § 2508(c), 105 Stat. 2086.
30127(f)	15:1392 (note).	Dec. 18, 1991, Pub. L. 102–240, § 2508(a)(1) (last sentence), (d), 105 Stat. 2085, 2086.
30127(g)	15:1392 (note).	Dec. 18, 1991, Pub. L. 102–240, § 2508(e), 105 Stat. 2086.
30127(h)	15:1392 (note).	Dec. 18, 1991, Pub. L. 102–240, § 2508(f), 105 Stat. 2087.

In subsection (a), the definitions are derived from section 2502(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2081) and are restated because those definitions apply to the source provisions being restated in this section.

In subsection (b)(1), before clause (A), the words ''Notwithstanding any other provision of law or rule'' and ''(to the extent such Act is not in conflict with the provisions of this section)'' are omitted as unnecessary because of the restatement. The words ''The amendment shall require'' are substituted for ''The amendment promulgated under subsection (a) shall establish the following schedule'' for clarity. The words ''manufactured on or after the dates specified in the applicable schedule established by subsection (b)'', ''The amendment shall take effect'', and ''Subject to the provisions of subsection (c)'' are omitted as unnecessary because of the restatement. The words ''for both of the front outboard seating positions for each'' are substituted for ''for the front outboard designated seating positions of each'' for clarity. In clause (B), the word ''new'' is omitted as unnecessary because of the restatement. The word ''only'' is substituted for ''exclusively'' for consistency in the revised title.

In subsection (b)(2), the words ''after August 31, 1998'' are substituted for ''on and after such date'' for clarity.

In subsection (c), before clause (1), the words ''In amending Standard 208, the Secretary of Transportation shall require'' are substituted for ''The amendment to such Standard 208 shall also require'' for clarity and to eliminate unnecessary words.

In subsection (e)(3), the words ''Only an affected manufacturer may apply for an exemption'' are added for clarity. The words ''consolidate similar applications from different manufacturers'' are substituted for ''consolidate applications of a similar nature of 1 or more manufacturers'' for clarity.

In subsection (f)(1), before clause (A), the words ''by the Secretary or any other person, including any court'' are omitted as surplus. In clause (A), the word ''affecting'' is substituted for ''altering or affecting'' to eliminate an unnecessary word.

In subsection (f)(2), the words ''by any person or court'' are omitted as unnecessary. The word ''affect'' is substituted for ''affect, change, or modify'' to eliminate unnecessary words.

In subsection (g)(1), before clause (A), the words ''and every 6 months after that date through'' are substituted for ''biannually . . . and continuing to'' for clarity. The word ''actual'' is omitted as unnecessary. The word ''expressed'' is substituted for ''defined'' for clarity.

In subsection (g)(2)(C), the words ''other Government and State employees'' are substituted for ''Federal and State employees other than law enforcement officers'' for clarity and because of the restatement.

In subsection (h)(2), the words ''for both front outboard seating positions'' are substituted for ''for both the driver and front seat outboard seating positions'' for clarity and consistency in this section.

REFERENCES IN TEXT

The National Traffic and Motor Vehicle Safety Act of 1966, referred to in subsec. (b)(1), is Pub. L. 89–563, Sept. 9, 1966, 80 Stat. 718, as amended, which was classified generally to chapter 38 (§ 1381 et seq.) of Title 15, Commerce and Trade, and was substantially repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30141, 30165 of this title.

SUBCHAPTER III—IMPORTING NONCOMPLYING MOTOR VEHICLES AND EQUIPMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 30112, 30169 of this title.

§ 30141. Importing motor vehicles capable of complying with standards

(a) GENERAL.—Section 30112(a) of this title does not apply to a motor vehicle if—

(1) on the initiative of the Secretary of Transportation or on petition of a manufacturer or importer registered under subsection (c) of this section, the Secretary decides—

(A) the vehicle is—

(i) substantially similar to a motor vehicle originally manufactured for import into and sale in the United States;

(ii) certified under section 30115 of this title;

(iii) the same model year (as defined under regulations of the Secretary of Transportation) as the model of the motor vehicle it is being compared to; and

(iv) capable of being readily altered to comply with applicable motor vehicle safety standards prescribed under this chapter; or

(B) if there is no substantially similar United States motor vehicle, the safety features of the vehicle comply with or are capable of being altered to comply with those standards based on destructive test information or other evidence the Secretary of Transportation decides is adequate;

(2) the vehicle is imported by a registered importer; and

(3) the registered importer pays the annual fee the Secretary of Transportation establishes under subsection (e) of this section to pay for the costs of carrying out the registration program for importers under subsection (c) of this section and any other fees the Secretary of Transportation establishes to pay for the costs of—

(A) processing bonds provided to the Secretary of the Treasury under subsection (d) of this section; and

(B) making the decisions under this subchapter.

(b) PROCEDURES ON DECIDING ON MOTOR VEHICLE CAPABILITY.—(1) The Secretary of Transportation shall establish by regulation procedures for making a decision under subsection (a)(1) of this section and the information a petitioner must provide to show clearly that the motor ve-

hicle is capable of being brought into compliance with applicable motor vehicle safety standards prescribed under this chapter. In establishing the procedures, the Secretary shall provide for a minimum period of public notice and written comment consistent with ensuring expeditious, but complete, consideration and avoiding delay by any person. In making a decision under those procedures, the Secretary shall consider test information and other information available to the Secretary, including any information provided by the manufacturer. If the Secretary makes a negative decision, the Secretary may not make another decision for the same model until at least 3 calendar months have elapsed after the negative decision.

(2) The Secretary of Transportation shall publish each year in the Federal Register a list of all decisions made under subsection (a)(1) of this section. Each published decision applies to the model of the motor vehicle for which the decision was made. A positive decision permits another importer registered under subsection (c) of this section to import a vehicle of the same model under this section if the importer complies with all the terms of the decision.

(c) REGISTRATION.—(1) The Secretary of Transportation shall establish procedures for registering a person who complies with requirements prescribed by the Secretary by regulation under this subsection, including—

(A) recordkeeping requirements;

(B) inspection of records and facilities related to motor vehicles the person has imported, altered, or both; and

(C) requirements that ensure that the importer (or a successor in interest) will be able technically and financially to carry out responsibilities under sections 30117(b), 30118–30121, and 30166(f) of this title.

(2) The Secretary of Transportation shall deny registration to a person whose registration is revoked under paragraph (4) of this subsection.

(3) The Secretary of Transportation may deny registration to a person that is or was owned or controlled by, or under common ownership or control with, a person whose registration was revoked under paragraph (4) of this subsection.

(4) The Secretary of Transportation shall establish procedures for—

(A) revoking or suspending a registration issued under paragraph (1) of this subsection for not complying with a requirement of this subchapter or any of sections 30112, 30115, 30117–30122, 30125(c), 30127, or 30166 of this title or regulations prescribed under this subchapter or any of those sections;

(B) automatically suspending a registration for not paying a fee under subsection (a)(3) of this section in a timely manner or for knowingly filing a false or misleading certification under section 30146 of this title; and

(C) reinstating suspended registrations.

(d) BONDS.—(1) A person importing a motor vehicle under this section shall provide a bond to the Secretary of the Treasury (acting for the Secretary of Transportation) and comply with the terms the Secretary of Transportation decides are appropriate to ensure that the vehicle—

(A) will comply with applicable motor vehicle safety standards prescribed under this chapter within a reasonable time (specified by the Secretary of Transportation) after the vehicle is imported; or

(B) will be exported (at no cost to the United States Government) by the Secretary of the Treasury or abandoned to the Government.

(2) The amount of the bond provided under this subsection shall be at least equal to the dutiable value of the motor vehicle (as determined by the Secretary of the Treasury) but not more than 150 percent of that value.

(e) FEE REVIEW, ADJUSTMENT, AND USE.—The Secretary of Transportation shall review and make appropriate adjustments at least every 2 years in the amounts of the fees required to be paid under subsection (a)(3) of this section. The Secretary of Transportation shall establish the fees for each fiscal year before the beginning of that year. All fees collected remain available until expended without fiscal year limit to the extent provided in advance by appropriation laws. The amounts are only for use by the Secretary of Transportation—

(1) in carrying out this section and sections 30146(a)–(c)(1), (d), and (e) and 30147(b) of this title; and

(2) in advancing to the Secretary of the Treasury amounts for costs incurred under this section and section 30146 of this title to reimburse the Secretary of the Treasury for those costs.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 960; Pub. L. 103–429, § 6(23), Oct. 31, 1994, 108 Stat. 4380.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30141(a)	15:1397(c)(3)(A), (C)(i).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 108(c)(2), (3)(A)–(D); added Oct. 31, 1988, Pub. L. 100–562, § 2(b), 102 Stat. 2818.
30141(b)	15:1397(c)(3)(C)(ii)–(iv).	
30141(c)	15:1397(c)(3)(D).	
30141(d)	15:1397(c)(2).	
30141(e)	15:1397(c)(3)(B).	

In subsection (a)(1)(A)(iv), the words ''prescribed under this chapter'' are substituted for ''Federal'' for consistency in this chapter.

In subsection (a)(3), before clause (A), the words ''any other fees'' are substituted for ''such other annual fee or fees'' to eliminate unnecessary words. In clause (B), the words ''this subchapter'' are substituted for ''this section'' for clarity. See H. Rept. No. 100–431, 100th Cong., 1st Sess., p. 19 (1987).

In subsection (b)(1), the words ''procedures for making a decision under subsection (a)(1) of this section'' are substituted for ''procedures for considering such petitions'' and ''procedures for determinations made on the Secretary's initiative'' because of the restatement. The words ''(whether or not confidential)'' are omitted as unnecessary because of the restatement.

In subsection (b)(2), the word ''permits'' is substituted for ''shall be sufficient authority'' for clarity. The word ''conditions'' is omitted as being included in ''terms''.

In subsection (c)(1), before clause (A), the words ''under this subsection'' are added for clarity. The word ''including'' is substituted for ''include, as a minimum'' to eliminate unnecessary words. In clause (B), the

words ''(relating to discovery, notification, and remedy of defects)'' are omitted as surplus.

In subsection (c)(3), the words ''directly or indirectly'' are omitted as unnecessary because of the restatement.

In subsection (d)(1), before clause (A), the word ''conditions'' is omitted as being included in ''terms''.

PUB. L. 103–429

This amends 49:30141(c)(4)(A) and 30165(a) to correct erroneous cross-references.

AMENDMENTS

1994—Subsec. (c)(4)(A). Pub. L. 103–429 substituted ''any of sections 30112'' for ''section 30112'' and inserted ''any of'' before ''those sections''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30112, 30142, 30146, 30147, 30165, 32902 of this title.

§ 30142. Importing motor vehicles for personal use

(a) GENERAL.—Section 30112(a) of this title does not apply to an imported motor vehicle if—

(1) the vehicle is imported for personal use, and not for resale, by an individual (except an individual described in sections 30143 and 30144 of this title);

(2) the vehicle is imported after January 31, 1990; and

(3) the individual takes the actions required under subsection (b) of this section to receive an exemption.

(b) EXEMPTIONS.—(1) To receive an exemption under subsection (a) of this section, an individual must—

(A) provide the Secretary of the Treasury (acting for the Secretary of Transportation) with—

(i) an appropriate bond in an amount determined under section 30141(d) of this title;

(ii) a copy of an agreement with an importer registered under section 30141(c) of this title for bringing the motor vehicle into compliance with applicable motor vehicle safety standards prescribed under this chapter; and

(iii) a certification that the vehicle meets the requirement of section 30141(a)(1)(A) or (B) of this title; and

(B) comply with appropriate terms the Secretary of Transportation imposes to ensure that the vehicle—

(i) will be brought into compliance with those standards within a reasonable time (specified by the Secretary of Transportation) after the vehicle is imported; or

(ii) will be exported (at no cost to the United States Government) by the Secretary of the Treasury or abandoned to the Government.

(2) For good cause shown, the Secretary of Transportation may allow an individual additional time, but not more than 30 days after the day on which the motor vehicle is offered for import, to comply with paragraph (1)(A)(ii) of this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 962.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30142(a)	15:1397(f)(1).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 108(f); added Oct. 31, 1988, Pub. L. 100–562, § 2(b), 102 Stat. 2822.
30142(b)	15:1397(f)(2).	

In subsection (a)(2), the words ''after January 31, 1990'' are substituted for ''after the effective date of the regulations initially issued to implement the amendments made to this section by the Imported Vehicle Safety Compliance Act of 1988'' for clarity. See 49 C.F.R. part 591.

In subsection (a)(3), the words ''the individual takes the actions required under subsection (b) of this section'' are substituted for ''if that individual takes the actions required by paragraph (2)'' for clarity and because of the restatement.

In subsection (b)(1), the word ''compliance'' is substituted for ''conformity'' for consistency in this chapter.

In subsection (b)(1)(B), before subclause (i), the word ''conditions'' is omitted as being included in ''terms''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30112, 30146, 30147, 30165, 32902 of this title.

§ 30143. Motor vehicles imported by individuals employed outside the United States

(a) DEFINITION.—In this section, ''assigned place of employment'' means—

(1) the principal location at which an individual is permanently or indefinitely assigned to work; and

(2) for a member of the uniformed services, the individual's permanent duty station.

(b) GENERAL.—Section 30112(a) of this title does not apply to a motor vehicle imported for personal use, and not for resale, by an individual—

(1) whose assigned place of employment was outside the United States as of October 31, 1988, and who has not had an assigned place of employment in the United States from that date through the date the vehicle is imported into the United States;

(2) who previously had not imported a motor vehicle into the United States under this section or section 108(g) of the National Traffic and Motor Vehicle Safety Act of 1966 or, before October 31, 1988, under section 108(b)(3) of that Act;

(3) who acquired, or made a binding contract to acquire, the vehicle before October 31, 1988;

(4) who imported the vehicle into the United States not later than October 31, 1992; and

(5) who satisfies section 108(b)(3) of that Act as in effect on October 30, 1988.

(c) CERTIFICATION.—Subsection (b) of this section is carried out by certification in the form the Secretary of Transportation or the Secretary of the Treasury may prescribe.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 963.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30143(a)	15:1397(g) (3d, last sentences).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 108(g); added Oct. 31, 1988, Pub. L. 100–562, § 2(b), 102 Stat. 2823.
30143(b), (c)	15:1397(g) (1st, 2d sentences).	

In subsection (b), before clause (1), the words ''(including a member of the uniformed services)'' are omitted as unnecessary because of the restatement. In clause (1), the words ''from that date through the date the vehicle is imported into the United States'' are substituted for ''that date and the date of entry of such motor vehicle'' for clarity and consistency in this chapter. In clause (2), the words ''under this section or section 108(g) of the National Traffic and Motor Vehicle Safety Act of 1966'' are substituted for ''this subsection'' to preserve the exemption for motor vehicles imported under the source provisions between October 30, 1988, and the effective date of this restatement. In clause (4), the word ''imports'' is substituted for ''enters'' for clarity and consistency in this chapter. In clause (5) the word ''satisfies'' is substituted for ''meets the terms, conditions, and other requirements . . . under'' to eliminate unnecessary words.

REFERENCES IN TEXT

Subsections (b)(3) and (g) of section 108 of the National Traffic and Motor Vehicle Safety Act of 1966, referred to in subsec. (b)(2), (5), are subsecs. (b)(3) and (g) of section 108 of Pub. L. 89–563, which were classified to subsecs. (b)(3) and (g), respectively, of section 1397 of Title 15, Commerce and Trade, were repealed and reenacted in sections 30112(b)(1)–(3) and 30143, respectively, of this title by Pub. L. 103–272, §§ 1(e), 7(b), July 5, 1994, 108 Stat. 945, 963, 1379.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30112, 30142, 30165 of this title.

§ 30144. Importing motor vehicles on a temporary basis

(a) GENERAL.—Section 30112(a) of this title does not apply to a motor vehicle imported on a temporary basis for personal use by an individual who is a member of—

(1)(A) the personnel of the government of a foreign country on assignment in the United States or a member of the Secretariat of a public international organization designated under the International Organizations Immunities Act (22 U.S.C. 288 et seq.); and

(B) the class of individuals for whom the Secretary of State has authorized free importation of motor vehicles; or

(2) the armed forces of a foreign country on assignment in the United States.

(b) VERIFICATION.—The Secretary of Transportation or the Secretary of the Treasury may require verification, that the Secretary of Transportation considers appropriate, that an individual is a member described under subsection (a) of this section. The Secretary of Transportation shall ensure that a motor vehicle imported under this section will be exported (at no cost to the United States Government) or abandoned to the Government when the individual no longer—

(1) resides in the United States; and

(2) is a member described under subsection (a) of this section.

(c) SALE IN THE UNITED STATES.—A motor vehicle imported under this section may not be sold when in the United States.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 964; Pub. L. 104–287, § 5(57), Oct. 11, 1996, 110 Stat. 3394.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30144(a)	15:1397(h) (1st sentence).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 108(h); added Oct. 31, 1988, Pub. L. 100–562, § 2(b), 102 Stat. 2823.
30144(b)	15:1397(h) (2d, 3d sentences).	
30144(c)	15:1397(h) (last sentence).	

In subsection (a)(1)(B), the word ''importation'' is substituted for ''entry'' for clarity and consistency in this chapter.

In subsection (b), before clause (1), the words ''that an individual is a member described under subsection (a) of this section'' are substituted for ''such status'' for clarity. The word ''imported'' is substituted for ''entered'' for clarity and consistency in this chapter. In clause (2), the words ''a member described under subsection (a) of this section'' are substituted for ''hold such status'' for clarity.

PUB. L. 104–287

This amends 49:30144(a)(1)(A) to correct an erroneous cross-reference.

REFERENCES IN TEXT

The International Organizations Immunities Act, referred to in subsec. (a)(1)(A), is title I of act Dec. 29, 1945, ch. 652, 59 Stat. 669, as amended, which is classified principally to subchapter XVIII (§ 288 et seq.) of chapter 7 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 288 of Title 22 and Tables.

AMENDMENTS

1996—Subsec. (a)(1)(A). Pub. L. 104–287 substituted ''International Organizations'' for ''International Organization''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30112, 30142, 30165 of this title.

§ 30145. Importing motor vehicles or equipment requiring further manufacturing

Section 30112(a) of this title does not apply to a motor vehicle or motor vehicle equipment if the vehicle or equipment—

(1) requires further manufacturing to perform its intended function as decided under regulations prescribed by the Secretary of Transportation; and

(2) is accompanied at the time of importation by a written statement issued by the manufacturer indicating the applicable motor vehicle safety standard prescribed under this chapter with which it does not comply.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 964.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30145	15:1397(e).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §108(e); added Oct. 31, 1988, Pub. L. 100–562, §2(b), 102 Stat. 2822.

In clause (2), the word ''importation'' is substituted for ''entry'' for clarity and consistency in this chapter. The words ''of the incomplete motor vehicle or item of equipment'' are omitted as unnecessary because of the restatement. The words ''prescribed under this chapter'' are substituted for ''Federal'' for consistency in this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30112, 30165 of this title.

§ 30146. Release of motor vehicles and bonds

(a) COMPLIANCE CERTIFICATION AND BOND.—(1) Except as provided in subsections (c) and (d) of this section, an importer registered under section 30141(c) of this title may license or register an imported motor vehicle for use on public streets, roads, or highways, or release custody of a motor vehicle imported by the registered importer or imported by an individual under section 30142 of this title and altered by the registered importer to meet applicable motor vehicle safety standards prescribed under this chapter to a person for license or registration for use on public streets, roads, or highways, only after 30 days after the registered importer certifies to the Secretary of Transportation, in the way the Secretary prescribes, that the motor vehicle complies with each standard prescribed in the year the vehicle was manufactured and that applies in that year to that vehicle. A vehicle may not be released if the Secretary gives written notice before the end of the 30-day period that the Secretary will inspect the vehicle under subsection (c) of this section.

(2) The Secretaries of Transportation and the Treasury shall prescribe regulations—

(A) ensuring the release of a motor vehicle and bond required under section 30141(d) of this title at the end of the 30-day period, unless the Secretary of Transportation issues a notice of an inspection under subsection (c) of this section; and

(B) providing that the Secretary of Transportation shall release the vehicle and bond promptly after an inspection under subsection (c) of this section showing compliance with the standards applicable to the vehicle.

(3) Each registered importer shall include on each motor vehicle released under this subsection a label prescribed by the Secretary of Transportation identifying the importer and stating that the vehicle has been altered by the importer to comply with the standards applicable to the vehicle.

(b) RELIANCE ON MANUFACTURER'S CERTIFICATION.—In making a certification under subsection (a)(1) of this section, the registered importer may rely on the manufacturer's certification for the model to which the motor vehicle involved is substantially similar if the importer certifies that any alteration made by the importer did not affect the compliance of the safety features of the vehicle and the importer keeps records verifying the certification for the period the Secretary of Transportation prescribes.

(c) EVIDENCE OF COMPLIANCE.—(1) The Secretary of Transportation may require that the certification under subsection (a)(1) of this section be accompanied by evidence of compliance the Secretary considers appropriate or may inspect the certified motor vehicle, or both. If the Secretary gives notice of an inspection, an importer may release the vehicle only after—

(A) an inspection showing the motor vehicle complies with applicable motor vehicle safety standards prescribed under this chapter for which the inspection was made; and

(B) release of the vehicle by the Secretary.

(2) The Secretary of Transportation shall inspect periodically a representative number of motor vehicles for which certifications have been filed under subsection (a)(1) of this section. In carrying out a motor vehicle testing program under this chapter, the Secretary shall include a representative number of motor vehicles for which certifications have been filed under subsection (a)(1).

(d) CHALLENGING THE CERTIFICATION.—A motor vehicle or bond may not be released under subsection (a) of this section if the Secretary of Transportation, not later than 30 days after receiving a certification under subsection (a)(1) of this section, gives written notice that the Secretary believes or has reason to believe that the certification is false or contains a misrepresentation. The vehicle and bond may be released only after the Secretary is satisfied with the certification and any modification of the certification.

(e) BOND RELEASE.—A release of a bond required under section 30141(d) of this title is deemed an acceptance of a certification or completion of an inspection under this section but is not a decision by the Secretary of Transportation under section 30118(a) or (b) of this title of compliance with applicable motor vehicle safety standards prescribed under this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 964.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30146(a)	15:1397(c)(3)(E)(i) (1st, 3d, last sentences), (vii).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, §108(c)(3)(E); added Oct. 31, 1988, Pub. L. 100–562, §2(b), 102 Stat. 2820.
30146(b)	15:1397(c)(3)(E)(ii).	
30146(c)	15:1397(c)(3)(E)(i) (2d sentence), (iii), (iv).	
30146(d)	15:1397(c)(3)(E)(vi).	
30146(e)	15:1397(c)(3)(E)(v).	

In subsection (a)(1), the words ''Except as provided in subsections (c) and (d) of this section'' are added because of the restatement.

In subsection (a)(2)(B), the words ''showing compliance with the standards'' are substituted for ''showing no such failure to comply'' for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30141, 30147, 30165, 30169 of this title.

§ 30147. Responsibility for defects and noncompliance

(a) DEEMING DEFECT OR NONCOMPLIANCE TO CERTAIN VEHICLES AND IMPORTER AS MANUFACTURER.—(1) In carrying out sections 30117(b), 30118–30121, and 30166(f) of this title—

(A) for a defect or noncompliance with an applicable motor vehicle safety standard prescribed under this chapter for a motor vehicle originally manufactured for import into the United States, an imported motor vehicle having a valid certification under section 30146(a)(1) of this title and decided to be substantially similar to that motor vehicle shall be deemed as having the same defect or as not complying with the same standard unless the manufacturer or importer registered under section 30141(c) of this title demonstrates otherwise to the Secretary of Transportation; and

(B) the registered importer shall be deemed to be the manufacturer of any motor vehicle that the importer imports or brings into compliance with the standards for an individual under section 30142 of this title.

(2) The Secretary shall publish in the Federal Register notice of any defect or noncompliance under paragraph (1)(A) of this subsection.

(b) FINANCIAL RESPONSIBILITY REQUIREMENT.—The Secretary shall require by regulation each registered importer (including any successor in interest) to provide and maintain evidence, satisfactory to the Secretary, of sufficient financial responsibility to meet its obligations under sections 30117(b), 30118–30121, and 30166(f) of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 966.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30147(a)	15:1397(d)(1).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 108(d); added Oct. 31, 1988, Pub. L. 100–562, § 2(b), 102 Stat. 2821.
30147(b)	15:1397(d)(2).	

In this section, the words ''(relating to discovery, notification, and remedy of motor vehicle defects)'' are omitted as surplus.

In subsection (a)(1)(A), the words ''for a motor vehicle'' are substituted for ''in, or regarding, any motor vehicle'' to eliminate unnecessary words.

In subsection (a)(1)(B), the word ''compliance'' is substituted for ''conformity'' for consistency in this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30141, 30165 of this title.

SUBCHAPTER IV—ENFORCEMENT AND ADMINISTRATIVE

§ 30161. Judicial review of standards

(a) FILING AND VENUE.—A person adversely affected by an order prescribing a motor vehicle safety standard under this chapter may apply for review of the order by filing a petition for review in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 59 days after the order is issued.

(b) NOTIFYING SECRETARY.—The clerk of the court shall send immediately a copy of the petition to the Secretary of Transportation. The Secretary shall file with the court a record of the proceeding in which the order was prescribed.

(c) ADDITIONAL PROCEEDINGS.—(1) On request of the petitioner, the court may order the Secretary to receive additional evidence and evidence in rebuttal if the court is satisfied that the additional evidence is material and there were reasonable grounds for not presenting the evidence in the proceeding before the Secretary.

(2) The Secretary may modify findings of fact or make new findings because of the additional evidence presented. The Secretary shall file a modified or new finding, a recommendation to modify or set aside the order, and the additional evidence with the court.

(d) CERTIFIED COPIES OF RECORDS OF PROCEEDINGS.—The Secretary shall give any interested person a certified copy of the transcript of the record in a proceeding under this section on request and payment of costs. A certified copy of the record of the proceeding is admissible in a proceeding arising out of a matter under this chapter, regardless of whether the proceeding under this section has begun or becomes final.

(e) FINALITY OF JUDGMENT AND SUPREME COURT REVIEW.—A judgment of a court under this section is final and may be reviewed only by the Supreme Court under section 1254 of title 28.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 966.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30161(a)	15:1394(a)(1) (1st sentence), (3).	Sept. 9, 1966, Pub. L. 89–563, § 105(a)(1)–(5), (b), 80 Stat. 720, 721.
30161(b)	15:1394(a)(1) (2d, last sentences).	
30161(c)	15:1394(a)(2).	
30161(d)	15:1394(b).	
30161(e)	15:1394(a)(4), (5).	

In subsection (a), the words ''In a case of actual controversy as to the validity of'' and ''who will be . . . when it is effective'' are omitted as surplus. The words ''an order prescribing a motor vehicle safety standard under this chapter'' are substituted for ''any order under section 1392 of this title'' for consistency. The words ''apply for review'' are added for clarity. The words ''The petition must be filed'' are substituted for ''at any time'' for clarity. The text of 15:1394(a)(3) is omitted as surplus because 5:ch. 7 applies unless otherwise stated.

In subsection (b), the words ''or other officer designated by him for that purpose'' are omitted as surplus because of 49:322(b). The words ''in which the order was prescribed'' are substituted for ''on which the Secretary based his order'' for consistency. The words ''as provided in section 2112 of title 28'' are omitted as surplus.

In subsection (c)(1), the words ''in such manner and upon such terms and conditions as to the court may seem proper'' are omitted as surplus. The words ''is satisfied'' are substituted for ''shows to the satisfaction of'' to eliminate unnecessary words. The words ''and to be adduced upon the hearing'' are omitted as unnecessary.

In subsection (c)(2), the words ''with the court'' are substituted for ''the return of'' for clarity.

In subsection (d), the words ''thereof'' and ''criminal, exclusion of imports, or other'' are omitted as surplus. The words ''under this section'' are substituted for ''with respect to the order'' for clarity. The word ''previously'' is omitted as surplus.

In subsection (e), the words ''under this section is final and may be reviewed only'' are substituted for ''affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review'' to eliminate unnecessary words. The text of 15:1394(a)(5) is omitted because of rule 43 of the Federal Rules of Appellate Procedure (28 App. U.S.C.).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 30103 of this title.

§ 30162. Petitions by interested persons for standards and enforcement

(a) FILING.—Any interested person may file a petition with the Secretary of Transportation requesting the Secretary to begin a proceeding—

(1) to prescribe a motor vehicle safety standard under this chapter; or

(2) to decide whether to issue an order under section 30118(b) of this title.

(b) STATEMENT OF FACTS.—The petition must state facts that the person claims establish that a motor vehicle safety standard or order referred to in subsection (a) of this section is necessary and briefly describe the order the Secretary should issue.

(c) PROCEEDINGS.—The Secretary may hold a public hearing or conduct an investigation or proceeding to decide whether to grant the petition.

(d) ACTIONS OF SECRETARY.—The Secretary shall grant or deny a petition not later than 120 days after the petition is filed. If a petition is granted, the Secretary shall begin the proceeding promptly. If a petition is denied, the Secretary shall publish the reasons for the denial in the Federal Register.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 967.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30162(a)	15:1410a(a).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 124(a)–(d); added Oct. 27, 1974, Pub. L. 93–492, § 106, 88 Stat. 1481.
30162(b)	15:1410a(b).	
30162(c)	15:1410a(c).	
30162(d)	15:1410a(d).	

Subsection (a)(1) is substituted for ''the issuance of an order pursuant to section 1392 of this title'' for clarity and because of the restatement.

In subsection (b), the words ''a motor vehicle safety standard'' are added because of the restatement. The words ''referred to in subsection (a) of this section'' are added for clarity. The words ''of the substance'' are omitted as surplus.

In subsection (c), the words ''as he deems appropriate in order'' and ''or not'' are omitted as surplus.

In subsection (d), the words ''described in subsection (b) of this section'', ''either'', and ''requested in the petition'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 30103 of this title.

§ 30163. Actions by the Attorney General

(a) CIVIL ACTIONS TO ENFORCE.—The Attorney General may bring a civil action in a United States district court to enjoin—

(1) a violation of this chapter or a regulation prescribed or order issued under this chapter; and

(2) the sale, offer for sale, or introduction or delivery for introduction, in interstate commerce, or the importation into the United States, of a motor vehicle or motor vehicle equipment for which it is decided, before the first purchase in good faith other than for resale, that the vehicle or equipment—

(A) contains a defect related to motor vehicle safety about which notice was given under section 30118(c) of this title or an order was issued under section 30118(b) of this title; or

(B) does not comply with an applicable motor vehicle safety standard prescribed under this chapter.

(b) PRIOR NOTICE.—When practicable, the Secretary of Transportation shall notify a person against whom a civil action under subsection (a) of this section is planned, give the person an opportunity to present that person's views, and, except for a knowing and willful violation of this chapter, give the person a reasonable opportunity to remedy the defect or comply with the applicable motor vehicle safety standard prescribed under this chapter. Failure to give notice and an opportunity to remedy the defect or comply with the applicable motor vehicle safety standard prescribed under this chapter does not prevent a court from granting appropriate relief.

(c) VENUE.—Except as provided in section 30121(d) of this title, a civil action under this section or section 30165(a) of this title may be brought in the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found.

(d) JURY TRIAL DEMAND.—In a trial for criminal contempt for violating an injunction or restraining order issued under subsection (a) of this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(e) SUBPENAS FOR WITNESSES.—In a civil action brought under this section, a subpena for a witness may be served in any judicial district.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 967.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30163(a)	15:1399(a) (1st sentence).	Sept. 9, 1966, Pub. L. 89–563, § 110(a), (c), 80 Stat. 723, 724; Oct. 27, 1974, Pub. L. 93–492, §§ 102(b)(2), 103(c), 88 Stat. 1477, 1478.
	15:1424(b) (related to injunctions).	Sept. 9, 1966, Pub. L. 89–563, § 204(b) (related to injunctions), 80 Stat. 729.
30163(b)	15:1399(a) (2d, last sentences).	
30163(c)	15:1399(c).	
30163(d)	15:1399(b).	Sept. 9, 1966, Pub. L. 89–563, § 110(b), (d) (related to § 110), 80 Stat. 723, 724.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30163(e)	15:1399(d) (related to 15:1399).	

In subsection (a), before clause (1), the text of 15:1424(b) (related to injunctions) is omitted because of the restatement. The words ''The Attorney General may bring a civil action'' are substituted for ''upon petition by . . . the Attorney General'' for consistency. The words ''the appropriate United States attorney or . . . on behalf of the United States'' are omitted as surplus. The words ''for cause shown and subject to the provisions of rule 65(a) and (b) of the Federal Rules of Civil Procedure'' are omitted as surplus. In clause (1), the words ''a regulation prescribed or order issued under this chapter'' are substituted for ''(or rules, regulations or orders thereunder)'' for clarity and consistency and because ''rule'' and ''regulation'' are synonymous. In clause (2), before subclause (A), the words ''that the vehicle or equipment'' are added for clarity. The words ''of such vehicle'' and ''purposes'' are omitted as surplus. In subclause (B), the words ''does not comply with'' are substituted for ''is determined . . . not to conform to'' for clarity and consistency.

In subsections (b), (c), and (e), the word ''civil'' is added because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (b), the words ''comply with the applicable motor vehicle safety standard prescribed under this chapter'' are substituted for ''achieve compliance'', and the words ''a court'' are added, for clarity.

In subsection (c), the words ''any act or transaction constituting the'' are omitted as surplus. The word ''resides'' is substituted for ''is an inhabitant'' for consistency in the revised title. The words ''the action'' are substituted for ''such cases'' for consistency.

In subsection (d), the words ''the defendant may demand a jury trial'' are substituted for ''trial shall be by the court, or, upon demand of the accused, by a jury'' to eliminate unnecessary words and for consistency in the revised title.

In subsection (e), the words ''who are required to attend a United States district court'' are omitted as surplus. The words ''be served in'' are substituted for ''run into'' for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 30121 of this title.

§ 30164. Service of process

(a) DESIGNATING AGENTS.—A manufacturer offering a motor vehicle or motor vehicle equipment for import shall designate an agent on whom service of notices and process in administrative and judicial proceedings may be made. The designation shall be in writing and filed with the Secretary of Transportation. The designation may be changed in the same way as originally made.

(b) SERVICE.—An agent may be served at the agent's office or usual place of residence. Service on the agent is deemed to be service on the manufacturer. If a manufacturer does not designate an agent, service may be made by posting the notice or process in the office of the Secretary.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 968.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30164(a)	15:1399(e) (1st sentence).	Sept. 9, 1966, Pub. L. 89–563, § 110(e), 80 Stat. 724.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30164(b)	15:1399(e) (last sentence).	

In subsection (a), the words ''A manufacturer offering . . . shall'' are substituted for ''It shall be the duty of every manufacturer offering . . . to'' to eliminate unnecessary words. The words ''into the United States'', ''all . . . orders, decisions and requirements'', and ''for and on behalf of said manufacturer'' are omitted as surplus. The words ''The designation may be changed in the same way as originally made'' are substituted for ''which designation may from time to time be changed by like writing, similarly filed'' for clarity.

In subsection (b), the words ''An agent may be served'' are substituted for ''Service of all administrative and judicial processes, notices, orders, decisions and requirements may be made upon said manufacturer by service upon such designated agent'' to eliminate unnecessary words. The words ''Service on the agent is deemed to be service on the manufacturer'' are substituted for ''with like effects as if made personally upon said manufacturer'', and the words ''If a manufacturer does not designate an agent'' are substituted for ''and in default of such designation of such agent'', for clarity. The words ''of process, notice, order, requirement or decision in any proceeding before the Secretary or in any judicial proceeding for enforcement of this subchapter or any standards prescribed pursuant to this subchapter'' and ''order, requirement or decision'' are omitted as surplus.

§ 30165. Civil penalty

(a) PENALTY.—A person that violates any of sections 30112, 30115, 30117–30122, 30123(d), 30125(c), 30127, 30141–30147, or 30166 of this title or a regulation prescribed under any of those sections is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by any of those sections. The maximum penalty under this subsection for a related series of violations is $800,000.

(b) COMPROMISE AND SETOFF.—(1) The Secretary of Transportation may compromise the amount of a civil penalty imposed under this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(c) CONSIDERATIONS.—In determining the amount of a civil penalty or compromise, the appropriateness of the penalty or compromise to the size of the business of the person charged and the gravity of the violation shall be considered.

(d) SUBPENAS FOR WITNESSES.—In a civil action brought under this section, a subpena for a witness may be served in any judicial district.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 968; Pub. L. 103–429, § 6(23), Oct. 31, 1994, 108 Stat. 4380.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30165(a)	15:1398(a).	Sept. 9, 1966, Pub. L. 89–563, §109(a), 80 Stat. 723; Oct. 27, 1974, Pub. L. 93–492, §103(b), 88 Stat. 1478.
	15:1424(b) (related to civil penalty).	Sept. 9, 1966, Pub. L. 89–563, §§109(b), 110(d) (related to §109), 204(b) (related to civil penalty), 80 Stat. 723, 724, 729.
30165(b)	15:1398(b) (1st, last sentences).	
30165(c)	15:1398(b) (2d sentence).	
30165(d)	15:1399(d) (related to 15:1398).	

In subsection (a), the text of 15:1424(b) (related to civil penalty) is omitted because of the restatement. The words ''is liable to the United States Government for'' are substituted for ''shall be subject to'' for consistency. The words ''A separate violation occurs for'' are substituted for ''Such violation of a provision of section 1397 of this title, or regulations issued thereunder, shall constitute a separate violation with respect to'' to eliminate unnecessary words.

In subsection (b)(2), the words ''amount of a civil penalty imposed or compromised'' are substituted for ''amount of such penalty, when finally determined, or the amount agreed upon in compromise'' to eliminate unnecessary words.

In subsection (d), the words ''who are required to attend a United States district court'' are omitted as surplus. The words ''be served in'' are substituted for ''run into'' for clarity.

PUB. L. 103–429

This amends 49:30141(c)(4)(A) and 30165(a) to correct erroneous cross-references.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–429 substituted ''any of sections 30112'' for ''section 30112'' and inserted ''any of'' before ''those sections'' in two places.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 30163 of this title.

§ 30166. Inspections, investigations, and records

(a) DEFINITION.—In this section, ''motor vehicle accident'' means an occurrence associated with the maintenance or operation of a motor vehicle or motor vehicle equipment resulting in personal injury, death, or property damage.

(b) AUTHORITY TO INSPECT AND INVESTIGATE.—(1) The Secretary of Transportation may conduct an inspection or investigation—

(A) that may be necessary to enforce this chapter or a regulation prescribed or order issued under this chapter; or

(B) related to a motor vehicle accident and designed to carry out this chapter.

(2) The Secretary of Transportation shall cooperate with State and local officials to the greatest extent possible in an inspection or investigation under paragraph (1)(B) of this subsection.

(c) MATTERS THAT CAN BE INSPECTED AND IMPOUNDMENT.—In carrying out this chapter, an officer or employee designated by the Secretary of Transportation—

(1) at reasonable times, may inspect and copy any record related to this chapter;

(2) on request, may inspect records of a manufacturer, distributor, or dealer to decide whether the manufacturer, distributor, or dealer has complied or is complying with this chapter or a regulation prescribed or order issued under this chapter; and

(3) at reasonable times, in a reasonable way, and on display of proper credentials and written notice to an owner, operator, or agent in charge, may—

(A) enter and inspect with reasonable promptness premises in which a motor vehicle or motor vehicle equipment is manufactured, held for introduction in interstate commerce, or held for sale after introduction in interstate commerce;

(B) enter and inspect with reasonable promptness premises at which a vehicle or equipment involved in a motor vehicle accident is located;

(C) inspect with reasonable promptness that vehicle or equipment; and

(D) impound for not more than 72 hours a vehicle or equipment involved in a motor vehicle accident.

(d) REASONABLE COMPENSATION.—When a motor vehicle (except a vehicle subject to subchapter I of chapter 135 of this title) or motor vehicle equipment is inspected or temporarily impounded under subsection (c)(3) of this section, the Secretary of Transportation shall pay reasonable compensation to the owner of the vehicle if the inspection or impoundment results in denial of use, or reduction in value, of the vehicle.

(e) RECORDS AND MAKING REPORTS.—The Secretary of Transportation reasonably may require a manufacturer of a motor vehicle or motor vehicle equipment to keep records, and a manufacturer, distributor, or dealer to make reports, to enable the Secretary to decide whether the manufacturer, distributor, or dealer has complied or is complying with this chapter or a regulation prescribed or order issued under this chapter. This subsection does not impose a recordkeeping requirement on a distributor or dealer in addition to those imposed under subsection (f) of this section and section 30117(b) of this title or a regulation prescribed or order issued under subsection (f) or section 30117(b).

(f) PROVIDING COPIES OF COMMUNICATIONS ABOUT DEFECTS AND NONCOMPLIANCE.—A manufacturer shall give the Secretary of Transportation a true or representative copy of each communication to the manufacturer's dealers or to owners or purchasers of a motor vehicle or replacement equipment produced by the manufacturer about a defect or noncompliance with a motor vehicle safety standard prescribed under this chapter in a vehicle or equipment that is sold or serviced.

(g) ADMINISTRATIVE AUTHORITY ON REPORTS, ANSWERS, AND HEARINGS.—(1) In carrying out this chapter, the Secretary of Transportation may—

(A) require, by general or special order, any person to file reports or answers to specific

questions, including reports or answers under oath; and

(B) conduct hearings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(2) A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(h) CIVIL ACTIONS TO ENFORCE AND VENUE.—A civil action to enforce a subpena or order under subsection (g) of this section may be brought in the United States district court for any judicial district in which the proceeding is conducted. The court may punish a failure to obey an order of the court to comply with a subpena or order as a contempt of court.

(i) GOVERNMENTAL COOPERATION.—The Secretary of Transportation may request a department, agency, or instrumentality of the United States Government to provide records the Secretary considers necessary to carry out this chapter. The head of the department, agency, or instrumentality shall provide the record on request, may detail personnel on a reimbursable basis, and otherwise shall cooperate with the Secretary. This subsection does not affect a law limiting the authority of a department, agency, or instrumentality to provide information to another department, agency, or instrumentality.

(j) COOPERATION OF SECRETARY.—The Secretary of Transportation may advise, assist, and cooperate with departments, agencies, and instrumentalities of the Government, States, and other public and private agencies in developing a method for inspecting and testing to determine compliance with a motor vehicle safety standard.

(k) PROVIDING INFORMATION.—The Secretary of Transportation shall provide the Attorney General and, when appropriate, the Secretary of the Treasury, information obtained that indicates a violation of this chapter or a regulation prescribed or order issued under this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 969; Pub. L. 103–429, § 6(24), Oct. 31, 1994, 108 Stat. 4380; Pub. L. 104–88, title III, § 308(j), Dec. 29, 1995, 109 Stat. 947; Pub. L. 104–287, § 6(f)(3), Oct. 11, 1996, 110 Stat. 3399.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30166(a)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(a)(3)(B)).	Sept. 9, 1966, Pub. L. 89–563, § 108(a)(1)(B) (related to § 112(a)–(c)), (D) (related to § 158(a)(1)), (E) (related to § 112(a)–(c)), 80 Stat. 722; Oct. 27, 1974, Pub. L. 93–492, § 103(a)(1)(A), (2), (3), 88 Stat. 1477, 1478.
	15:1401(a)(3)(B).	Sept. 9, 1966, Pub. L. 89–563, § 112(a)–(c), 80 Stat. 725; restated Oct. 27, 1974, Pub. L. 93–492, § 104(a), 88 Stat. 1478.
30166(b)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(a)(1) (1st, last sentences)). 15:1401(a)(1) (1st, last sentences).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30166(c)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(a)(2), (b) (1st sentence 61st–last words), (c)(2)). 15:1401(a)(2), (b) (1st sentence 61st–last words), (c)(2).	
30166(d)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(a)(3)(A)). 15:1401(a)(3)(A).	
30166(e)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(b) (1st sentence 1st–60th words, last sentence)). 15:1401(b) (1st sentence 1st–60th words, last sentence).	
30166(f)	15:1397(a)(1)(D) (related to 15:1418(a)(1)). 15:1418(a)(1).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 158(a)(1); added Oct. 27, 1974, Pub. L. 93–492, § 102(a), 88 Stat. 1475.
30166(g)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(c)(1), (3), (5)). 15:1401(c)(1), (3), (5).	
30166(h)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(c)(4)). 15:1401(c)(4).	
30166(i)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(c)(6)). 15:1401(c)(6).	
30166(j)	15:1396 (related to inspecting and testing).	Sept. 9, 1966, Pub. L. 89–563, § 107 (related to inspecting and testing), 80 Stat. 721.
30166(k)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(a)(1) (2d sentence)). 15:1401(a)(1) (2d sentence).	

In this section, the words ''regulation prescribed or order issued under this chapter'' are substituted for ''rules, regulations, or orders issued thereunder'' and ''regulations and orders promulgated thereunder'' for consistency and because ''rule'' and ''regulation'' are synonymous. The text of 15:1397(a)(1)(B) and (E) (as 1397(a)(1)(B), (E) relates to 15:1401) is omitted as surplus.

In subsection (a), the words ''As used'' are omitted as surplus. The word ''use'' is omitted as being included in ''operation''.

In subsection (b)(1)(A), the words ''this chapter'' are substituted for ''this subchapter'' because of the restatement.

In subsection (b)(1)(B), the words ''the facts, circumstances, conditions, and causes of'' are omitted as surplus. The words ''designed to carry out'' are substituted for ''which is for the purposes of carrying out'' to eliminate unnecessary words.

In subsection (b)(2), the words ''making'', ''appropriate'', and ''consistent with the purposes of this subsection'' are omitted as surplus.

In subsection (c), before clause (1), the words ''In carrying out this chapter'' are substituted for ''For purposes of carrying out paragraph (1)'' in 15:1401(a)(2) and ''In order to carry out the provisions of this subchapter'' in 15:1401(c)(2) for clarity and consistency in this chapter. The words ''an officer or employee des-

ignated by the Secretary of Transportation'' are substituted for ''officers or employees duly designated by the Secretary'' in 15:1401(a)(2), ''an officer or employee duly designated by the Secretary'' in 15:1401(b), and ''his duly authorized agent'' in 15:1401(c)(2) for consistency. In clause (1), the words ''may inspect and copy'' are substituted for ''shall . . . have access to, and for the purposes of examination the right to copy'' in 15:1401(c)(2) to eliminate unnecessary words. The words ''of any person having materials or information . . . any function of the Secretary under'' are omitted as surplus. In clause (2), the word ''may'' is substituted for ''permit such officer or employee to'' in 15:1401(b) because of the restatement. The words ''appropriate'' and ''relevant'' are omitted as surplus. In clause (3)(A)–(C), the words ''inspect with reasonable promptness'' are substituted for 15:1401(a)(2) (last sentence) to eliminate unnecessary words and for consistency. In clause (3)(A), the word ''premises'' is substituted for ''factory, warehouse, or establishment'' for consistency. In clause (3)(D), the words ''not more than'' are substituted for ''a period not to exceed'' for consistency.

In subsection (d), the words ''for the purpose of inspection'' and ''the authority of'' are omitted as surplus. The words ''is inspected or temporarily impounded under subsection (c)(3) of this section'' are substituted for ''Whenever, under the authority of paragraph (2)(B), the Secretary inspects or temporarily impounds for the purpose of inspection'' for clarity and to correct the cross-reference in the source provision. The words ''to its owner'' are omitted as surplus.

In subsection (e), the words ''establish and'' are omitted as surplus. The words ''This subsection does not impose'' are substituted for ''Nothing in this subsection shall be construed as imposing'' for consistency and to eliminate unnecessary words.

In subsection (f), the words ''notices, bulletins, and other'' are omitted as surplus. The words ''with a motor vehicle safety standard prescribed under this chapter'' are added for clarity. The text of 15:1397(a)(1)(D) (related to 15:1418(a)(1)) is omitted as surplus.

In subsection (g)(1), before clause (A), the words ''or on the authorization of the Secretary, any officer or employee of the Department of Transportation'' are omitted as surplus because of 49:322(b). In clause (A), the words ''in writing'', ''in such form as the Secretary may prescribe'', ''relating to any function of the Secretary under this subchapter'', and ''shall be filed with the Secretary within such reasonable period as the Secretary may prescribe'' are omitted as surplus. In clause (B), the words ''sit and act at such times and places'' are omitted as being included in ''conduct hearings''. The word ''records'' is substituted for ''such books, papers, correspondence, memorandums, contracts, agreements, or other records'' for consistency in the revised title and with other titles of the United States Code.

In subsection (h), the words ''A civil action to enforce a subpena or order . . . may be brought in the United States district court for the judicial district in which the proceeding is conducted'' are substituted for ''any of the district courts of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpena or order of the Secretary or such officer or employee . . . issue an order requiring compliance therewith'' for clarity and to eliminate unnecessary words. The words ''an order of the court to comply with a subpena or order'' are substituted for ''such order of the court'' for clarity.

In subsection (i), the words ''United States'' are substituted for ''Federal'' for consistency. The words ''to provide'' are substituted for ''from'' because of the restatement. The words ''his functions under'' are omitted as surplus. The words ''head of the'' are added for consistency. The words ''to the Department of Transportation . . . made by the Secretary'' are omitted as surplus. The words ''detail personnel on a reimbursable basis'' are substituted for 15:1401(c)(6)(B) to eliminate unnecessary words and because of the restatement. The word ''otherwise'' is added for clarity. The words ''be deemed to'' and ''provision of'' are omitted as surplus.

In subsection (j), the words ''departments, agencies, and instrumentalities of the Government, States, and other public and private agencies'' are substituted for ''other Federal departments and agencies, and State and other interested public and private agencies'' for consistency.

In subsection (k), the words ''for appropriate action'' are omitted as surplus.

PUB. L. 103–429

This amends 49:30166(h) to clarify the restatement of 15:1401(c)(4) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 970).

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–287 made technical amendment to directory language of Pub. L. 104–88, § 308(j). See 1995 Amendment note below.

1995—Subsec. (d). Pub. L. 104–88, § 308(j), as amended by Pub. L. 104–287, substituted ''subchapter I of chapter 135'' for ''subchapter II of chapter 105''.

1994—Subsec. (h). Pub. L. 103–429 substituted ''any judicial district'' for ''the judicial district''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 6(f)(3) of Pub. L. 104–287 provided that the amendment made by that section is effective Dec. 29, 1995.

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 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30102, 30103, 30117, 30118, 30141, 30147, 30165 of this title.

§ 30167. Disclosure of information by the Secretary of Transportation

(a) CONFIDENTIALITY OF INFORMATION.—Information obtained under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only in the following ways:

(1) to other officers and employees carrying out this chapter.

(2) when relevant to a proceeding under this chapter.

(3) to the public if the confidentiality of the information is preserved.

(4) to the public when the Secretary of Transportation decides that disclosure is necessary to carry out section 30101 of this title.

(b) DEFECT AND NONCOMPLIANCE INFORMATION.—Subject to subsection (a) of this section, the Secretary shall disclose information obtained under this chapter related to a defect or noncompliance that the Secretary decides will assist in carrying out sections 30117(b) and 30118–30121 of this title or that is required to be disclosed under section 30118(a) of this title. A requirement to disclose information under this subsection is in addition to the requirements of section 552 of title 5.

(c) INFORMATION ABOUT MANUFACTURER'S INCREASED COSTS.—A manufacturer opposing an

action of the Secretary under this chapter because of increased cost shall submit to the Secretary information about the increased cost, including the manufacturer's cost and the cost to retail purchasers, that allows the public and the Secretary to evaluate the manufacturer's statement. The Secretary shall evaluate the information promptly and, subject to subsection (a) of this section, shall make the information and evaluation available to the public. The Secretary shall publish a notice in the Federal Register that the information is available.

(d) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 970.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30167(a)	15:1397(a)(1)(B) (related to 15:1401(e) (1st sentence)), (D) (related to 15:1418(a)(2)(B)), (E) (related to 15:1401(e) (1st sentence)).	Sept. 9, 1966, Pub. L. 89–563, § 108(a)(1)(B) (related to § 112(e)), (D) (related to § 158(a)(2)), (E) (related to § 112(e)), 80 Stat. 722; Oct. 27, 1974, Pub. L. 93–492, § 103(a)(1)(A), (2), (3), 88 Stat. 1477, 1478.
	15:1401(e) (1st sentence).	Sept. 9, 1966, Pub. L. 89–563, § 112(e), 80 Stat. 725; Oct. 27, 1974, Pub. L. 93–492, § 104(b), 88 Stat. 1480.
	15:1402(b)(2) (1st sentence).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 113; added Oct. 27, 1974, Pub. L. 93–492, § 105, 88 Stat. 1480.
	15:1418(a)(2)(B).	Sept. 9, 1966, Pub. L. 89–563, 80 Stat. 718, § 158(a)(2); added Oct. 27, 1974, Pub. L. 93–492, § 102(a), 88 Stat. 1476.
30167(b)	15:1397(a)(1)(D) (related to 15:1418(a)(2)(A), (C)).	
	15:1418(a)(2)(A), (C).	
30167(c)	15:1402(a), (b)(1), (c)–(e).	
30167(d)	15:1397(a)(1)(B), (E) (as 1397(a)(1)(B), (E) relates to 15:1401(e) (last sentence)).	
	15:1401(e) (last sentence).	
	15:1402(b)(2) (last sentence).	

In this section, the text of 15:1397(a)(1)(B) (related to 15:1401(e)), (D) (related to 15:1418(a)(2)), and (E) (related to 15:1401(e)) is omitted as surplus.

In subsection (a), before clause (1), the words ''Except as otherwise provided in section 1418(a)(2) and section 1402(b) of this title'' in 15:1401(e) (1st sentence) are omitted, and the words ''Information obtained under this chapter related to a confidential matter'' are substituted for ''all information reported to or otherwise obtained by the Secretary or his representative pursuant to this subchapter which information contains or relates to a trade secret or other matter'' in 15:1401(e) (1st sentence) and ''described in subparagraph (A)'' in 15:1418(a)(2)(B), because of the restatement. The words ''shall be considered confidential for the purpose of that section'' are omitted as surplus. The words ''may be disclosed only in the following ways'' are substituted for ''except that such information may be disclosed'' in 15:1401(e) (1st sentence) and 15:1402(b)(2) (1st sentence) and ''and shall not be disclosed; unless'' in 15:1418(a)(2)(B) to eliminate unnecessary words. Clause (3) is substituted for 15:1402(b)(2) (1st sentence words before 2d comma) to eliminate unnecessary words.

In subsection (b), the words ''Subject to'' are substituted for ''Except as provided in'' for consistency. The words ''to the public so much of any'' and ''which is'' are omitted as surplus. The words ''which relates to motor vehicle safety'' and ''with an applicable Federal motor vehicle safety standard'' are omitted because of the restatement. The words ''the purposes of'' and ''and not in lieu of'' are omitted as surplus.

In subsection (c), the words ''For purposes of this section, the term 'cost information' means'' and ''such cost information'' are omitted because of the restatement. The words ''alleged'', ''both'', and ''resulting from action by the Secretary, in such form'' are omitted as surplus. The words ''Such term includes'' are omitted because of the restatement. The words ''to evaluate'' are substituted for ''to make an informed judgment'' to eliminate unnecessary words and for consistency in the subsection. The words ''(in such detail as the Secretary may by regulation or order prescribe)'' are omitted as surplus because of 49:322(a). The word ''thereafter'' is omitted as surplus. The word ''evaluate'' is substituted for ''prepare an evaluation of'' to eliminate unnecessary words. The words ''The Secretary'' are added for clarity. The text of 15:1402(d) is omitted as surplus because of 49:322(a). The text of 15:1402(e) is omitted as surplus because of the restatement.

In subsection (d), the words ''by the Secretary or any officer or employee under his control'' and ''duly'' are omitted as surplus. The words ''to have the information'' are added for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30103, 30117, 30118 of this title.

§ 30168. Research, testing, development, and training

(a) GENERAL AUTHORITY.—(1) The Secretary of Transportation shall conduct research, testing, development, and training necessary to carry out this chapter. The research, development, testing, and training shall include—

(A) collecting information to determine the relationship between motor vehicle or motor vehicle equipment performance characteristics and—

(i) accidents involving motor vehicles; and

(ii) the occurrence of death or personal injury resulting from those accidents;

(B) obtaining experimental and other motor vehicles and motor vehicle equipment for research or testing; and

(C) selling or otherwise disposing of test motor vehicles and motor vehicle equipment and crediting the proceeds to current appropriations available to carry out this chapter.

(2) The Secretary may carry out this subsection through grants to States, interstate authorities, and nonprofit institutions.

(b) USE OF PUBLIC AGENCIES.—In carrying out this chapter, the Secretary shall use the services, research, and testing facilities of public agencies to the maximum extent practicable to avoid duplication.

(c) FACILITIES.—The Secretary may plan, design, and build a new facility or modify an existing facility to conduct research, development, and testing in traffic safety, highway safety, and motor vehicle safety. An expenditure of more than $100,000 for planning, design, or construction may be made only if the planning, design, or construction is approved by substantially similar resolutions by the Committees on Commerce and Transportation and Infrastructure of the House of Representatives and the Commit-

tees on Commerce, Science, and Transportation and Environment and Public Works of the Senate. To obtain that approval, the Secretary shall submit to Congress a prospectus on the proposed facility. The prospectus shall include—

(1) a brief description of the facility being planned, designed, or built;

(2) the location of the facility;

(3) an estimate of the maximum cost of the facility;

(4) a statement identifying private and public agencies that will use the facility and the contribution each agency will make to the cost of the facility; and

(5) a justification of the need for the facility.

(d) INCREASING COSTS OF APPROVED FACILITIES.—The estimated maximum cost of a facility approved under subsection (c) of this section may be increased by an amount equal to the percentage increase in construction costs from the date the prospectus is submitted to Congress. However, the increase in the cost of the facility may not be more than 10 percent of the estimated maximum cost included in the prospectus. The Secretary shall decide what increase in construction costs has occurred.

(e) AVAILABILITY OF INFORMATION, PATENTS, AND DEVELOPMENTS.—When the United States Government makes more than a minimal contribution to a research or development activity under this chapter, the Secretary shall include in the arrangement for the activity a provision to ensure that all information, patents, and developments related to the activity are available to the public. However, the owner of a background patent may not be deprived of a right under the patent.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 971; Pub. L. 104–287, § 5(58), Oct. 11, 1996, 110 Stat. 3394.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30168(a)	15:1395(a), (b).	Sept. 9, 1966, Pub. L. 89–563, §§ 106, 118, 80 Stat. 721, 728.
30168(b)	15:1406.	
30168(c)	15:1431(a).	Sept. 9, 1966, Pub. L. 89–563, § 301, 80 Stat. 729; restated May 22, 1970, Pub. L. 91–265, § 7, 84 Stat. 263.
30168(d)	15:1431(b).	
30168(e)	15:1395(c).	

In subsection (a)(1), before clause (A), the words ''the purposes of'' and ''but not limited to'' are omitted as surplus. In clause (A), before subclause (i), the words ''from any source'' are omitted as surplus. In clause (B), the words ''(by negotiation or otherwise)'' and ''purposes'' are omitted as surplus. In clause (C), the word ''crediting'' is substituted for ''reimbursing'' because it is more appropriate. The words ''of such sale or disposal'' and ''the purposes of'' are omitted as surplus.

In subsection (a)(2), the words ''conduct research, testing, development, and training as authorized to be . . . for the conduct of such research, testing, development, and training'' are omitted as surplus. The word ''authorities'' is substituted for ''agencies'' for consistency.

In subsection (b), the words ''in order'' are omitted as surplus.

In subsection (c), before clause (1), the word ''suitable'' is omitted as surplus. The word ''testing'' is substituted for ''compliance and other testing'' to eliminate unnecessary words. The words ''An expenditure of more than $100,000 . . . may be made only'' are substituted for ''except that no appropriation shall be made . . . involving an expenditure in excess of $100,000'' as being more precise and to eliminate unnecessary words. The words ''substantially similar resolutions'' are substituted for ''resolutions adopted in substantially the same form'' to eliminate unnecessary words. The words ''Energy and Commerce'' are substituted for ''Interstate and Foreign Commerce'', and the words ''Public Works and Transportation'' are substituted for ''Public Works'', to conform to the amendments made to House Rule X changing the names of those committees. The words ''Commerce, Science, and Transportation'' are substituted for ''Commerce'', and the words ''Environment and Public Works'' are substituted for ''Public Works'', to conform to the amendments made to Senate Rule XXV changing the names of those committees. The words ''To obtain that'' are substituted for ''For the purpose of securing consideration of such'' to eliminate unnecessary words. The words ''The prospectus shall include'' are substituted for ''including'' for clarity. The words ''(but not limited to)'' are omitted as surplus. In clause (5), the words ''statement of'' are omitted as surplus.

In subsection (d), the words ''if any'' are omitted as surplus. The words ''in the cost of the facility'' are substituted for ''authorized by this subsection'', and the words ''The Secretary shall decide what increase in construction costs has occurred'' are substituted for ''as determined by the Secretary'', for clarity.

In subsection (e), the words ''United States Government'' are substituted for ''Federal'' for consistency. The words ''arrangement for the activity'' are substituted for ''contract, grant, or other arrangement for such research or development activity'', and the words ''patents, and developments'' are substituted for ''uses, processes, patents, and other developments'', to eliminate unnecessary words. The words ''encouraging motor vehicle safety'', ''effective'', ''fully and freely'', and ''general'' are omitted as surplus. The word ''However'' is added for clarity. The words ''may not be'' are substituted for ''Nothing herein shall be construed to'' for consistency. The words ''which he may have'' are omitted as surplus.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–287 substituted ''Committees on Commerce and Transportation and Infrastructure'' for ''Committees on Energy and Commerce and Public Works and Transportation''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 35 section 210.

§ 30169. Annual reports

(a) GENERAL REPORT.—The Secretary of Transportation shall submit to the President to submit to Congress on July 1 of each year a report on the administration of this chapter for the prior calendar year. The report shall include—

(1) a thorough statistical compilation of accidents and injuries;

(2) motor vehicle safety standards in effect or prescribed under this chapter;

(3) the degree of observance of the standards;

(4) a summary of current research grants and contracts and a description of the problems to be considered under those grants and contracts;

(5) an analysis and evaluation of research activities completed and technological progress achieved;

(6) enforcement actions;

(7) the extent to which technical information was given the scientific community and consumer-oriented information was made available to the public; and

(8) recommendations for legislation needed to promote cooperation among the States in improving traffic safety and strengthening the national traffic safety program.

(b) REPORT ON IMPORTING MOTOR VEHICLES.—Not later than 18 months after regulations are first prescribed under section 2(e)(1)(B) of the Imported Vehicle Safety Compliance Act of 1988, the Secretary shall submit to Congress a report of the actions taken to carry out subchapter III of this chapter and the effectiveness of those actions, including any testing by the Secretary under section 30146(c)(2) of this title. After the first report, the Secretary shall submit a report to Congress under this subsection not later than July 31 of each year.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 972.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30169(a)	15:1408.	Sept. 9, 1966, Pub. L. 89–563, § 120, 80 Stat. 728; May 22, 1970, Pub. L. 91–265, § 5, 84 Stat. 263; Oct. 27, 1974, Pub. L. 93–492, § 110(b), 88 Stat. 1484.
30169(b)	15:1397 (note).	Oct. 31, 1988, Pub. L. 100–562, § 2(e)(4), 102 Stat. 2825.

In subsection (a), before clause (1), the words ''prepare and'', ''comprehensive'', and ''but not be restricted to'' are omitted as unnecessary. In clause (1), the words ''occurring in such year'' are omitted as surplus. In clause (2), the words ''in such year'' are omitted as surplus. The words ''under this chapter'' are substituted for ''Federal'' for consistency in this chapter. In clause (3), the words ''applicable Federal motor vehicle'' are omitted as surplus. In clause (4), the word ''all'' is omitted as surplus. In clause (5), the words ''including relevant policy recommendations'' and ''during such year'' are omitted as surplus. In clause (6), the words ''a statement of . . . including judicial decisions, settlements, or pending litigation during such year'' are omitted as surplus. In clause (7), the word ''motoring'' is omitted as surplus. In clause (8), the words ''The report required by subsection (a) of this section shall contain such'' are omitted because of the restatement. The words ''additional . . . as the Secretary deems'' and ''several'' are omitted as surplus.

REFERENCES IN TEXT

Section 2(e)(1)(B) of the Imported Vehicle Safety Compliance Act of 1988, referred to in subsec. (b), is section 2(e)(1)(B) of Pub. L. 100–562, which was set out as a note under section 1397 of Title 15, Commerce and Trade, prior to repeal by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379.

CHAPTER 303—NATIONAL DRIVER REGISTER

Sec.
30301. Definitions.
30302. National Driver Register.
30303. State participation.
30304. Reports by chief driver licensing officials.
30305. Access to Register information.
30306. National Driver Register Advisory Committee.
30307. Criminal penalties.
30308. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 31311 of this title.

§ 30301. Definitions

In this chapter—

(1) ''alcohol'' has the same meaning given that term in regulations prescribed by the Secretary of Transportation.

(2) ''chief driver licensing official'' means the official in a State who is authorized to—

(A) maintain a record about a motor vehicle operator's license issued by the State; and

(B) issue, deny, revoke, suspend, or cancel a motor vehicle operator's license issued by the State.

(3) ''controlled substance'' has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(4) ''motor vehicle'' means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on public streets, roads, or highways, but does not include a vehicle operated only on a rail line.

(5) ''motor vehicle operator's license'' means a license issued by a State authorizing an individual to operate a motor vehicle on public streets, roads, or highways.

(6) ''participating State'' means a State that has notified the Secretary under section 30303 of this title of its participation in the National Driver Register.

(7) ''State'' means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(8) ''State of record'' means a State that has given the Secretary a report under section 30304 of this title about an individual who is the subject of a request for information made under section 30305 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 973.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30301	23:401 (note).	Oct. 25, 1982, Pub. L. 97–364, § 202, 96 Stat. 1740.

In clauses (4) and (5), the words ''public streets, roads, or highways'' are substituted for ''highway'' and '' 'highway' means any road or street'' for consistency in the revised title.

In clause (4), the words ''rail line'' are substituted for ''rail or rails'' for consistency in the revised title.

The definitions of ''Secretary'', ''Register'', and ''Register system'' are omitted as surplus because the complete name of the Secretary of Transportation and the National Driver Register are used the first time the terms appear in a section.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 30302. National Driver Register

(a) ESTABLISHMENT AND CONTENTS.—The Secretary of Transportation shall establish as soon as practicable and maintain a National Driver Register to assist chief driver licensing officials of participating States in exchanging informa-

tion about the motor vehicle driving records of individuals. The Register shall contain an index of the information reported to the Secretary under section 30304 of this title. The Register shall enable the Secretary (electronically or, until all States can participate electronically, by United States mail)—

(1) to receive information submitted under section 30304 of this title by the chief driver licensing official of a State of record;

(2) to receive a request for information made by the chief driver licensing official of a participating State under section 30305 of this title;

(3) to refer the request to the chief driver licensing official of a State of record; and

(4) in response to the request, to relay information provided by a chief driver licensing official of a State of record to the chief driver licensing official of a participating State, without interception of the information.

(b) ACCURACY OF INFORMATION.—The Secretary is not responsible for the accuracy of information relayed to the chief driver licensing official of a participating State. However, the Secretary shall maintain the Register in a way that ensures against inadvertent alteration of information during a relay.

(c) TRANSITION FROM PRIOR REGISTER.—(1) The Secretary shall provide by regulation for the orderly transition from the register maintained under the Act of July 14, 1960 (Public Law 86–660, 74 Stat. 526), as restated by section 401 of the National Traffic and Motor Vehicle Safety Act of 1966 (Public Law 89–563, 80 Stat. 730), to the Register maintained under this chapter.

(2)(A) The Secretary shall delete from the Register a report or information that was compiled under the Act of July 14, 1960 (Public Law 86–660, 74 Stat. 526), as restated by section 401 of the National Traffic and Motor Vehicle Safety Act of 1966 (Public Law 89–563, 80 Stat. 730), and transferred to the Register, after the earlier of—

(i) the date the State of record removes it from the State's file;

(ii) 7 years after the date the report or information is entered in the Register; or

(iii) the date a fully electronic Register system is established.

(B) The report or information shall be disposed of under chapter 33 of title 44.

(3) If the chief driver licensing official of a participating State finds that information provided for inclusion in the Register is erroneous or is related to a conviction of a traffic offense that subsequently is reversed, the official immediately shall notify the Secretary. The Secretary shall provide for the immediate deletion of the information from the Register.

(d) ASSIGNMENT OF PERSONNEL.—In carrying out this chapter, the Secretary shall assign personnel necessary to ensure the effective operation of the Register.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 973.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30302	23:401 (note).	Oct. 25, 1982, Pub. L. 97–364, §203, 96 Stat. 1741.

In subsection (a), before clause (1), the words ''after the date of enactment of this title [Oct. 25, 1982]'' are omitted as obsolete.

In subsection (c)(1), the words ''The Secretary shall provide by regulation'' are substituted for ''The Secretary shall, within eighteen months after the date of enactment of this title [Oct. 25, 1982], promulgate a final rule which provides'' to eliminate executed language, for consistency in the revised title, and because ''rule'' and ''regulation'' are synonymous.

The text of section 203(e) of the National Driver Register Act of 1982 (Public Law 97–364, 96 Stat. 1742) is omitted as unnecessary because of 49:322(a).

REFERENCES IN TEXT

Act of July 14, 1960, referred to in subsec. (c)(1), (2)(A), is set out below.

REGISTER OF REVOCATIONS OF MOTOR VEHICLE OPERATOR'S LICENSES

Pub. L. 86–660, July 14, 1960, 74 Stat. 526, as amended by Pub. L. 87–359, Oct. 4, 1961, 75 Stat. 779; Pub. L. 89–563, title IV, §401, Sept. 9, 1966, 80 Stat. 730, provided: ''That the Secretary of Commerce shall establish and maintain a register identifying each individual reported to him by a State, or political subdivision thereof, as an individual with respect to whom such State or political subdivision has denied, terminated, or temporarily withdrawn (except a withdrawal for less than six months based on a series of nonmoving violations) an individual's license or privilege to operate a motor vehicle.

''SEC. 2. Only at the request of a State, a political subdivision thereof, or a Federal department or agency, shall the Secretary furnish information contained in the register established under the first section of this Act, and such information shall be furnished only to the requesting party and only with respect to an individual applicant for a motor vehicle operator's license or permit.

''SEC. 3. As used in this Act, the term 'State' includes each of the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands, the Canal Zone, and American Samoa.''

§ 30303. State participation

(a) NOTIFICATION.—A State may become a participating State under this chapter by notifying the Secretary of Transportation of its intention to be bound by section 30304 of this title.

(b) WITHDRAWAL.—A participating State may end its status as a participating State by notifying the Secretary of its withdrawal from participation in the National Driver Register.

(c) FORM AND WAY OF NOTIFICATION.—Notification by a State under this section shall be made in the form and way the Secretary prescribes by regulation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 974.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30303	23:401 (note).	Oct. 25, 1982, Pub. L. 97–364, §204, 96 Stat. 1742.

In subsection (c), the words ''in the form and way'' are substituted for ''in such form, and according to such procedures'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 30301 of this title.

§ 30304. Reports by chief driver licensing officials

(a) INDIVIDUALS COVERED.—As soon as practicable, the chief driver licensing official of each

participating State shall submit to the Secretary of Transportation a report containing the information specified by subsection (b) of this section for each individual—

(1) who is denied a motor vehicle operator's license by that State for cause;

(2) whose motor vehicle operator's license is revoked, suspended, or canceled by that State for cause; or

(3) who is convicted under the laws of that State of any of the following motor vehicle-related offenses or comparable offenses:

(A) operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance.

(B) a traffic violation arising in connection with a fatal traffic accident, reckless driving, or racing on the highways.

(C) failing to give aid or provide identification when involved in an accident resulting in death or personal injury.

(D) perjury or knowingly making a false affidavit or statement to officials about activities governed by a law or regulation on the operation of a motor vehicle.

(b) CONTENTS.—(1) Except as provided in paragraph (2) of this subsection, a report under subsection (a) of this section shall contain—

(A) the individual's legal name, date of birth, sex, and, at the Secretary's discretion, height, weight, and eye and hair color;

(B) the name of the State providing the information; and

(C) the social security account number if used by the State for driver record or motor vehicle license purposes, and the motor vehicle operator's license number if different from the social security account number.

(2) A report under subsection (a) of this section about an event that occurs during the 2-year period before the State becomes a participating State is sufficient if the report contains all of the information that is available to the chief driver licensing official when the State becomes a participating State.

(c) TIME FOR FILING.—If a report under subsection (a) of this section is about an event that occurs—

(1) during the 2-year period before the State becomes a participating State, the report shall be submitted not later than 6 months after the State becomes a participating State; or

(2) after the State becomes a participating State, the report shall be submitted not later than 31 days after the motor vehicle department of the State receives any information specified in subsection (b)(1) of this section that is the subject of the report.

(d) EVENTS OCCURRING BEFORE PARTICIPATION.—This section does not require a State to report information about an event that occurs before the 2-year period before the State becomes a participating State.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 975.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30304	23:401 (note).	Oct. 25, 1982, Pub. L. 97–364, § 205, 96 Stat. 1742.

In subsection (a), before clause (1), the words ''after the date of enactment of this title [Oct. 25, 1982]'' are omitted as obsolete.

In subsection (b)(1)(A), the words ''(including day, month, and year)'' are omitted as surplus.

In subsection (b)(2), the words ''A report under subsection (a) of this section'' are substituted for ''any report concerning an occurrence specified in subsection (a)(1), (2), or (3) of this section'' to eliminate unnecessary words.

In subsection (c), before clause (1), the words ''required to be transmitted by a chief driver licensing official of a State'' are omitted as surplus. In clause (1), the words ''specified in subsection (a)(1), (2), or (3) of this section'' are omitted as surplus. In clause (2), the words ''the motor vehicle department of the State receives any information specified in subsection (b)(1) of this section that is the subject of the report'' are substituted for ''receipt by a State motor vehicle department of any information specified in subsection (b)(1), (2), or (3) of this section which is the subject of such report'' because of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20135, 30301, 30302, 30303, 30305, 30307, 31311 of this title; title 14 section 93.

§ 30305. Access to Register information

(a) REFERRALS OF INFORMATION REQUESTS.—(1) To carry out duties related to driver licensing, driver improvement, or transportation safety, the chief driver licensing official of a participating State may request the Secretary of Transportation to refer, electronically or by United States mail, a request for information about the motor vehicle driving record of an individual to the chief driver licensing official of a State of record.

(2) The Secretary of Transportation shall relay, electronically or by United States mail, information received from the chief driver licensing official of a State of record in response to a request under paragraph (1) of this subsection to the chief driver licensing official of the participating State requesting the information. However, the Secretary may refuse to relay information to the chief driver licensing official of a participating State that does not comply with section 30304 of this title.

(b) REQUESTS TO OBTAIN INFORMATION.—(1) The Chairman of the National Transportation Safety Board and the Administrator of the Federal Highway Administration may request the chief driver licensing official of a State to obtain information under subsection (a) of this section about an individual who is the subject of an accident investigation conducted by the Board or the Administrator. The Chairman and the Administrator may receive the information.

(2) An individual who is employed, or is seeking employment, as a driver of a motor vehicle may request the chief driver licensing official of the State in which the individual is employed or seeks employment to provide information about the individual under subsection (a) of this section to the individual's employer or prospective employer. An employer or prospective employer may receive the information and shall make the information available to the individual. Information may not be obtained from the National Driver Register under this paragraph if the information was entered in the Register more than 3 years before the request.

(3) An individual who has received, or is applying for, an airman's certificate may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the Administrator of the Federal Aviation Administration. The Administrator may receive the information and shall make the information available to the individual for review and written comment. The Administrator may use the information to verify information required to be reported to the Administrator by an airman applying for an airman medical certificate and to evaluate whether the airman meets the minimum standards prescribed by the Administrator to be issued an airman medical certificate. The Administrator may not otherwise divulge or use the information. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.

(4) An individual who is employed, or is seeking employment, by a rail carrier as an operator of a locomotive may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the individual's employer or prospective employer or to the Secretary of Transportation. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.

(5) An individual who holds, or is applying for, a license or certificate of registry under section 7101 of title 46, or a merchant mariner's document under section 7302 of title 46, may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the Secretary of the department in which the Coast Guard is operating. The Secretary may receive the information and shall make the information available to the individual for review and written comment before denying, suspending, or revoking the license, certificate, or document of the individual based on the information and before using the information in an action taken under chapter 77 of title 46. The Secretary may not otherwise divulge or use the information, except for purposes of section 7101, 7302, or 7703 of title 46. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.

(6) An individual may request the chief driver licensing official of a State to obtain information about the individual under subsection (a) of this section—

(A) to learn whether information about the individual is being provided;

(B) to verify the accuracy of the information; or

(C) to obtain a certified copy of the information.

(7) An individual who is an officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the Commandant of the Coast Guard. The Commandant may receive the information and shall make the information available to the individual. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.

(8) An individual who is seeking employment by an air carrier as a pilot may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the prospective employer of the individual or to the Secretary of Transportation. Information may not be obtained from the National Driver Register under this subsection if the information was entered in the Register more than 5 years before the request unless the information is about a revocation or suspension still in effect on the date of the request.

(9) A request under this subsection shall be made in the form and way the Secretary of Transportation prescribes by regulation.

(c) RELATIONSHIP TO OTHER LAWS.—A request for, or receipt of, information from the Register is subject to sections 552 and 552a of title 5, and other applicable laws of the United States or a State, except that—

(1) the Secretary of Transportation may not relay or otherwise provide information specified in section 30304(b)(1)(A) or (C) of this title to a person not authorized by this section to receive the information;

(2) a request for, or receipt of, information by a chief driver licensing official, or by a person authorized by subsection (b) of this section to request and receive the information, is deemed to be a routine use under section 552a(b) of title 5; and

(3) receipt of information by a person authorized by this section to receive the information is deemed to be a disclosure under section 552a(c) of title 5, except that the Secretary of Transportation is not required to retain the accounting made under section 552a(c)(1) for more than 7 years after the disclosure.

(d) AVAILABILITY OF INFORMATION PROVIDED UNDER PRIOR LAW.—Information provided by a State under the Act of July 14, 1960 (Public Law 86–660, 74 Stat. 526), as restated by section 401 of the National Traffic and Motor Vehicle Safety Act of 1966 (Public Law 89–563, 80 Stat. 730), and under this chapter, shall be available under this section during the transition from the register maintained under that Act to the Register maintained under this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 976; Pub. L. 104–264, title V, § 502(b), Oct. 9, 1996, 110 Stat. 3262; Pub. L. 104–324, title II, § 207(b), Oct. 19, 1996, 110 Stat. 3908; Pub. L. 105–102, § 2(18), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30305	23:401 (note).	Oct. 25, 1982, Pub. L. 97–364, § 206, 96 Stat. 1743; Dec. 30, 1987, Pub. L. 100–223, § 305, 101 Stat. 1525; June 22, 1988, Pub. L. 100–342, § 4(b), 102 Stat. 626; Aug. 18, 1990, Pub. L. 101–380, § 4105(a), 104 Stat. 512.

In subsection (a)(1), the words ''on and after the date of enactment of this title [Oct. 25, 1982]'' are omitted as obsolete.

In subsection (b)(1), the word ''Administrator'' is substituted for ''Bureau of Motor Carrier Safety'' for consistency.

Subsection (d) is substituted for the last 2 sentences (added twice by mistake) in paragraphs (1) and (2) and for the last sentence in paragraphs (3), (4), and (7)(C) of section 206(b) of the National Driver Register Act of 1982 (Public Law 97–364, 96 Stat. 1744) for clarity and to avoid repeating the provision unnecessarily.

PUB. L. 105–102, § 2(18)(A)

This amends 49:30305(b)(8), as redesignated by section 207(b) of the Coast Guard Authorization Act of 1996 (Public Law 104–324, 110 Stat. 3908), to correct an erroneous cross-reference.

PUB. L. 105–102, § 2(18)(B)

This amends 49:30305(b) to redesignate paragraph (8), as redesignated by section 502(b)(1) of the Federal Aviation Reauthorization Act of 1996 (Public Law 104–264, 110 Stat. 3262), as paragraph (9), because section 207(b) of the Coast Guard Authorization Act of 1996 (Public Law 104–324, 110 Stat. 3908), redesignated paragraph (7) as paragraph (8) but did not redesignate paragraph (8) as paragraph (9).

REFERENCES IN TEXT

Act of July 14, 1960, referred to in subsec. (d), is set out as a note under section 30302 of this title.

AMENDMENTS

1997—Subsec. (b)(8). Pub. L. 105–102, § 2(18)(B), redesignated par. (8), relating to request, as (9).

Pub. L. 105–102, § 2(18)(A), in par. (8), relating to individual seeking employment as pilot, substituted ''subsection (a) of this section'' for ''paragraph (2)''.

Subsec. (b)(9). Pub. L. 105–102, § 2(18)(B), redesignated par. (8), relating to request, as (9).

1996—Subsec. (b)(7). Pub. L. 104–324, § 207(b), added par. (7). Former par. (7), relating to individual seeking employment as pilot, redesignated (8).

Pub. L. 104–264, § 502(b), added par. (7). Former par. (7), relating to request, redesignated (8).

Subsec. (b)(8). Pub. L. 104–324, § 207(b), redesignated par. (7), relating to individual seeking employment as pilot, as (8).

Pub. L. 104–264, § 502(b), redesignated par. (7), relating to request, as (8).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

Section 502(d) of Pub. L. 104–264 provided that: ''The amendments made by this section [amending this section and sections 44936 and 46301 of this title] shall apply to any air carrier hiring an individual as a pilot whose application was first received by the carrier on or after the 120th day following the date of the enactment of this Act [Oct. 9, 1996].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20135, 30301, 30302, 30307, 44936 of this title; title 14 section 93.

§ 30306. National Driver Register Advisory Committee

(a) ORGANIZATION.—There is a National Driver Register Advisory Committee.

(b) DUTIES.—The Committee shall advise the Secretary of Transportation on—

(1) the efficiency of the maintenance and operation of the National Driver Register; and

(2) the effectiveness of the Register in assisting States in exchanging information about motor vehicle driving records.

(c) COMPOSITION AND APPOINTMENT.—The Committee is composed of 15 members appointed by the Secretary as follows:

(1) 3 members appointed from among individuals who are specially qualified to serve on the Committee because of their education, training, or experience, and who are not officers or employees of the United States Government or a State.

(2) 3 members appointed from among groups outside the Government that represent the interests of bus and trucking organizations, enforcement officials, labor, or safety organizations.

(3) 9 members, geographically representative of the participating States, appointed from among individuals who are chief driver licensing officials of participating States.

(d) TERMS.—(1) Except as provided in paragraph (2) of this subsection, the term of each member is 3 years.

(2) A vacancy on the Committee shall be filled in the same way as an original appointment. A member appointed to fill a vacancy serves for the remainder of the term of that member's predecessor. After a member's term ends, the member may continue to serve until a successor takes office.

(e) PAY AND EXPENSES.—Members of the Committee serve without pay. However, the Secretary may reimburse a member for reasonable travel expenses incurred by the member in attending meetings of the Committee.

(f) MEETINGS, CHAIRMAN, VICE CHAIRMAN, AND QUORUM.—(1) The Committee shall meet at least once a year.

(2) The Committee shall elect a Chairman and a Vice Chairman from among its members.

(3) Eight members are a quorum.

(4) The Committee shall meet at the call of the Chairman or a majority of the members.

(g) PERSONNEL AND SERVICES.—The Secretary may provide the Committee with personnel, penalty mail privileges, and similar services the Secretary considers necessary to assist the Committee in carrying out its duties and powers under this section.

(h) REPORTS.—At least once a year, the Committee shall submit to the Secretary a report on the matters specified in subsection (b) of this section. The report shall include any recommendations of the Committee for changes in the Register.

(i) RELATIONSHIP TO OTHER LAWS.—The Committee is exempt from sections 10(e) and (f) and

14 of the Federal Advisory Committee Act (5 App. U.S.C.).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 978.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30306	23:401 (note).	Oct. 25, 1982, Pub. L. 97–364, §209, 96 Stat. 1746.

In subsection (a), the word ''hereby'' is omitted as surplus.

In subsection (c), the text of section 209(c)(2) of the National Driver Register Act of 1982 (Public Law 97–364, 96 Stat. 1746) is omitted as executed.

In subsection (g), the words ''The Secretary may provide the Committee'' are substituted for ''The Advisory Committee may receive from the Secretary'' for clarity.

In subsection (h), the cross-reference is used to avoid repeating the same language twice in this section.

REFERENCES IN TEXT

Sections 10 and 14 of the Federal Advisory Committee Act, referred to in subsec. (i), are sections 10 and 14 of Pub. L. 92–463, which are set out in the Appendix to Title 5, Government Organization and Employees.

§ 30307. Criminal penalties

(a) GENERAL PENALTY.—A person (except an individual described in section 30305(b)(6) of this title) shall be fined under title 18, imprisoned for not more than one year, or both, if—

(1) the person receives under section 30305 of this title information specified in section 30304(b)(1)(A) or (C) of this title;

(2) disclosure of the information is not authorized by section 30305 of this title; and

(3) the person willfully discloses the information knowing that disclosure is not authorized.

(b) INFORMATION PENALTY.—A person knowingly and willfully requesting, or under false pretenses obtaining, information specified in section 30304(b)(1)(A) or (C) of this title from a person receiving the information under section 30305 of this title shall be fined under title 18, imprisoned for not more than one year, or both.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 979.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30307	23:401 (note).	Oct. 25, 1982, Pub. L. 97–364, §208, 96 Stat. 1746; Dec. 30, 1987, Pub. L. 100–223, §305(b)(1), 101 Stat. 1526.

In this section, the words ''fined under title 18'' are substituted for ''fined not more than $10,000'' for consistency with title 18.

In subsection (a), before clause (1), the reference to ''section 30305(b)(6) of this title'' is used to carry out the probable intent of Congress. Section 305(b)(1) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Public Law 100–223, 101 Stat. 1526) amended section 206(b) of the National Driver Register Act of 1982 (Public Law 97–364, 96 Stat. 1744) by ''redesignating paragraphs (3) and (4), and any reference thereto, as paragraphs (4) and (5), respectively''. Because the reference to ''section 206(b)(4)'' in section 208 of the National Driver Register Act of 1982 appears to have been incorrect before that amendment, and would continue to be incorrect if the reference is redesignated as required by the amendment, a reference to section 30305(b)(6) is used in this section to carry out the probable intent of Congress.

§ 30308. Authorization of appropriations

(a) GENERAL.—The Secretary of Transportation shall make available from amounts made available to carry out section 402 of title 23 $4,000,000 for each of the fiscal years ending September 30, 1993, and September 30, 1994, $2,550,000 for each of fiscal years 1995, 1996, and 1997, and $1,855,000 for the period of October 1, 1997, through March 31, 1998, to carry out this chapter.

(b) AVAILABILITY OF AMOUNTS.—Amounts authorized under this section remain available until expended.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 979; Pub. L. 103–331, title III, §343, Sept. 30, 1994, 108 Stat. 2496; Pub. L. 103–429, §6(25), Oct. 31, 1994, 108 Stat. 4380; Pub. L. 104–59, title III, §343, Nov. 28, 1995, 109 Stat. 610; Pub. L. 104–287, §5(59), Oct. 11, 1996, 110 Stat. 3394; Pub. L. 105–18, title II, §8004, June 12, 1997, 111 Stat. 195; Pub. L. 105–130, §6(c), Dec. 1, 1997, 111 Stat. 2559.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30308	23:401 (note).	Oct. 25, 1982, Pub. L. 97–364, §211, 96 Stat. 1747; Dec. 18, 1991, Pub. L. 102–240, §2007, 105 Stat. 2080.

In subsection (a), the text of section 211(a) of the National Driver Register Act of 1982 (Public Law 97–364, 96 Stat. 1747) is omitted as executed. The words ''and the provisions of Public Law 86–660 (74 Stat. 526)'' and references to fiscal years 1983–1987 and 1992 are omitted as obsolete. The word ''section'' in the source provision is translated as if it were ''title'' to reflect the apparent intent of Congress.

PUB. L. 103–429

This amends 49:30308(b) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 979).

PUB. L. 104–287

This amends 49:30308 to correct a grammatical error.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–130 substituted ''1994,'' for ''1994, and'' and inserted ''and $1,855,000 for the period of October 1, 1997, through March 31, 1998,'' after ''1997,''.

Pub. L. 105–18 substituted '', 1996, and 1997'' for ''and 1996''.

1996—Subsec. (a). Pub. L. 104–287 inserted a comma after ''September 30, 1994''.

1995—Subsec. (a). Pub. L. 104–59 substituted ''and $2,550,000 for each of fiscal years 1995 and 1996'' for ''and $2,550,000 for fiscal year 1995''.

1994—Subsec. (a). Pub. L. 103–331 inserted ''and $2,550,000 for fiscal year 1995'' after ''1994''.

Subsec. (b). Pub. L. 103–429 substituted ''authorized'' for ''appropriated''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

CHAPTER 305—NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM

Sec.
30501. Definitions.
30502. National Motor Vehicle Title Information System.
30503. State participation.
30504. Reporting requirements.
30505. Penalties and enforcement.

AMENDMENTS

1997—Pub. L. 105–102, § 3(b), Nov. 20, 1997, 111 Stat. 2215, amended directory language of Pub. L. 104–152. See 1996 Amendment note below.

1996—Pub. L. 104–152, § 2(c), July 2, 1996, 110 Stat. 1384, as amended by Pub. L. 105–102, § 3(b), Nov. 20, 1997, 111 Stat. 2215, substituted ''National Motor Vehicle Title Information System'' for ''National Automobile Title Information System'' in chapter heading and in item 30502.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 18 section 2721.

§ 30501. Definitions

In this chapter—

(1) ''automobile'' has the same meaning given that term in section 32901(a) of this title.

(2) ''certificate of title'' means a document issued by a State showing ownership of an automobile.

(3) ''insurance carrier'' means an individual or entity engaged in the business of underwriting automobile insurance.

(4) ''junk automobile'' means an automobile that—

(A) is incapable of operating on public streets, roads, and highways; and

(B) has no value except as a source of parts or scrap.

(5) ''junk yard'' means an individual or entity engaged in the business of acquiring or owning junk automobiles for—

(A) resale in their entirety or as spare parts; or

(B) rebuilding, restoration, or crushing.

(6) ''operator'' means the individual or entity authorized or designated as the operator of the National Motor Vehicle Title Information System under section 30502(b) of this title, or the Attorney General, if there is no authorized or designated individual or entity.

(7) ''salvage automobile'' means an automobile that is damaged by collision, fire, flood, accident, trespass, or other event, to the extent that its fair salvage value plus the cost of repairing the automobile for legal operation on public streets, roads, and highways would be more than the fair market value of the automobile immediately before the event that caused the damage.

(8) ''salvage yard'' means an individual or entity engaged in the business of acquiring or owning salvage automobiles for—

(A) resale in their entirety or as spare parts; or

(B) rebuilding, restoration, or crushing.

(9) ''State'' means a State of the United States or the District of Columbia.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 979; Pub. L. 104–152, §§ 2(c), 3(a), July 2, 1996, 110 Stat. 1384; Pub. L. 105–102, § 3(b), Nov. 20, 1997, 111 Stat. 2215.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30501	15:2041.	Oct. 25, 1992, Pub. L. 102–519, § 201, 106 Stat. 3389.

In subsection (a)(2), the word ''showing'' is substituted for ''evidencing'' to use a more commonly understood term.

In subsection (a)(3), (5), and (8), the words ''individual or entity'' are substituted for ''individual, corporation, or other entity'' for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (a)(4) and (7), the words ''public streets, roads, and highways'' are substituted for ''roads or highways'' for clarity and consistency in the revised title.

In subsection (a)(6), the words ''National Automobile Title Information System'' are substituted for ''information system'' for clarity. The words ''no authorized or designated individual or entity'' are substituted for ''no such individual or entity is authorized'' for clarity

In subsection (a)(7), the word ''event'' is substituted for ''occurrence'' for clarity and consistency.

The text of 15:2041(9) is omitted because the complete title of the Secretary of Transportation is used the first time the term appears in a section.

AMENDMENTS

1997—Par. (6). Pub. L. 105–102 amended directory language of Pub. L. 104–152, § 2(c). See 1996 Amendment note below.

1996—Par. (6). Pub. L. 104–152, § 3(a), substituted ''Attorney General'' for ''Secretary of Transportation''.

Pub. L. 104–152, § 2(c), as amended by Pub. L. 105–102, § 3(b), substituted ''National Motor Vehicle Title Information System'' for ''National Automobile Title Information System''.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, § 3(b), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(b) is effective July 2, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

§ 30502. National Motor Vehicle Title Information System

(a) ESTABLISHMENT OR DESIGNATION.—(1) In cooperation with the States and not later than December 31, 1997, the Attorney General shall establish a National Motor Vehicle Title Information System that will provide individuals and entities referred to in subsection (e) of this section with instant and reliable access to information maintained by the States related to automobile titling described in subsection (d) of this section. However, if the Attorney General decides that the existing information system meets the requirements of subsections (d) and (e) of this section and will permit the Attorney General to carry out this chapter as early as possible, the Attorney General, in consultation with the Secretary of Transportation, may designate an existing information system as the National Motor Vehicle Title Information System.

(2) In cooperation with the Secretary of Transportation and the States, the Attorney General

shall ascertain the extent to which title and related information to be included in the system established under paragraph (1) of this subsection will be adequate, timely, reliable, uniform, and capable of assisting in efforts to prevent the introduction or reintroduction of stolen vehicles and parts into interstate commerce.

(b) OPERATION.—The Attorney General may authorize the operation of the System established or designated under subsection (a)(1) of this section by agreement with one or more States, or by designating, after consulting with the States, a third party that represents the interests of the States.

(c) USER FEES.—Operation of the System established or designated under subsection (a)(1) of this section shall be paid for by user fees and should be self-sufficient and not be dependent on amounts from the United States Government. The amount of fees the operator collects and keeps under this subsection subject to annual appropriation laws, excluding fees the operator collects and pays to an entity providing information to the operator, may be not more than the costs of operating the System.

(d) INFORMATION REQUIREMENTS.—The System established or designated under subsection (a)(1) of this section shall permit a user of the System at least to establish instantly and reliably—

(1) the validity and status of a document purporting to be a certificate of title;

(2) whether an automobile bearing a known vehicle identification number is titled in a particular State;

(3) whether an automobile known to be titled in a particular State is or has been a junk automobile or a salvage automobile;

(4) for an automobile known to be titled in a particular State, the odometer mileage disclosure required under section 32705 of this title for that automobile on the date the certificate of title for that automobile was issued and any later mileage information, if noted by the State; and

(5) whether an automobile bearing a known vehicle identification number has been reported as a junk automobile or a salvage automobile under section 30504 of this title.

(e) AVAILABILITY OF INFORMATION.—(1) The operator shall make available—

(A) to a participating State on request of that State, information in the System about any automobile;

(B) to a Government, State, or local law enforcement official on request of that official, information in the System about a particular automobile, junk yard, or salvage yard;

(C) to a prospective purchaser of an automobile on request of that purchaser, including an auction company or entity engaged in the business of purchasing used automobiles, information in the System about that automobile; and

(D) to a prospective or current insurer of an automobile on request of that insurer, information in the System about that automobile.

(2) The operator may release only the information reasonably necessary to satisfy the requirements of paragraph (1) of this subsection. The operator may not collect an individual's social security account number or permit users of the System to obtain an individual's address or social security account number.

(f) IMMUNITY.—Any person performing any activity under this section or sections 30503 or 30504 in good faith and with the reasonable belief that such activity was in accordance with this section or section 30503 or 30504, as the case may be, shall be immune from any civil action respecting such activity which is seeking money damages or equitable relief in any court of the United States or a State.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 980; Pub. L. 104–152, §§2(a), (c), 3, 4, July 2, 1996, 110 Stat. 1384; Pub. L. 105–102, §3(b), Nov. 20, 1997, 111 Stat. 2215.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30502(a)	15:2042(a)(1).	Oct. 25, 1992, Pub. L. 102–519, §202, 106 Stat. 3390.
30502(b)	15:2042(a)(2).	
30502(c)	15:2042(a)(3).	
30502(d)	15:2042(b).	
30502(e)	15:2042(c).	

In subsection (a)(1), the words ''January 31, 1996'' are substituted for ''January 1996'' for clarity. The words ''National Automobile Title Information System'' are substituted for ''National Motor Vehicle Title Information System'' for clarity and consistency because the defined term in the source provisions being restated is ''automobile''. The words ''individuals and entities referred to in subsection (e) of this section'' are substituted for ''States and others'', the words ''information maintained by the States related to automobile titling described in subsection (d) of this section'' are substituted for ''information maintained by other States pertaining to the titling of automobiles'', and the words ''existing information system'' are substituted for ''such system'', for clarity.

In subsection (a)(2), the words ''In cooperation with'' are substituted for ''working with'' for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (b), the word ''agreement'' is substituted for ''contract through an agreement'' to eliminate unnecessary words. The word ''designating'' is substituted for ''redesignating'' for clarity.

In subsection (c), the words ''user fees'' are substituted for ''a system of user fees'' to eliminate unnecessary words. The words ''amounts from the United States Government'' are substituted for ''Federal funds'' for clarity and consistency in the revised titles and with other titles of the Code. The word ''pays'' are substituted for ''passed on'' for clarity. The word ''entity'' is substituted for ''State or other entity'' to eliminate unnecessary words.

In subsection (d)(4), the words ''the odometer mileage disclosure required'' are substituted for ''the odometer reading information'', and the words ''any later mileage information'' are substituted for ''any such later odometer information'', for consistency with section 32705 of the revised title.

In subsection (e)(2), the words ''The operator may release only the information necessary'' are substituted for ''Notwithstanding any provision of paragraphs (1) through (4), the operator shall release no information other than what is necessary'' to eliminate unnecessary words. The words ''social security account number'' are substituted for ''social security number'' for consistency with 42:405.

AMENDMENTS

1997—Pub. L. 105–102 amended directory language of Pub. L. 104–152, §2(c). See 1996 Amendment notes below.

1996—Pub. L. 104–152, §2(c), as amended by Pub. L. 105–102, substituted ''Motor Vehicle'' for ''Automobile'' in section catchline.

Subsecs. (a), (b). Pub. L. 104–152, §3(a), which directed the amendment of this section by striking each reference to ''Secretary of Transportation'' or ''Secretary'' and inserting ''Attorney General'', and Pub. L. 104–152, §3(b), which directed the striking of each reference to ''Attorney General'' and inserting ''Secretary of Transportation'', were executed simultaneously, to reflect the probable intent of Congress. See below.

Subsec. (a)(1). Pub. L. 104–152, §3, substituted ''Attorney General shall'' for ''Secretary of Transportation shall'', ''Attorney General decides'' for ''Secretary decides'', ''permit the Attorney General'' for ''permit the Secretary'', and ''Attorney General, in consultation with the Secretary of Transportation'' for ''Secretary, in consultation with the Attorney General''.

Pub. L. 104–152, §2(c), as amended by Pub. L. 105–102, substituted ''National Motor Vehicle Title Information System'' for ''National Automobile Title Information System'' in two places.

Pub. L. 104–152, §2(a), substituted ''December 31, 1967'' for ''January 31, 1966''.

Subsec. (a)(2). Pub. L. 104–152, §3, substituted ''Secretary of Transportation'' for ''Attorney General'' and ''Attorney General'' for ''Secretary''.

Subsec. (b). Pub. L. 104–152, §3(a), substituted ''Attorney General'' for ''Secretary''.

Subsec. (f). Pub. L. 104–152, §4, added subsec. (f).

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, §3(b), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(b) is effective July 2, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

EFFECTIVENESS OF SYSTEM

Section 6(c) of Pub. L. 104–152 provided that: ''The information system established under section 30502 of title 49, United States Code, shall be effective as provided in the rules promulgated by the Attorney General.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30501, 30503, 30504 of this title.

§ 30503. State participation

(a) STATE INFORMATION.—Each State shall make titling information maintained by that State available for use in operating the National Motor Vehicle Title Information System established or designated under section 30502 of this title.

(b) VERIFICATION CHECKS.—Each State shall establish a practice of performing an instant title verification check before issuing a certificate of title to an individual or entity claiming to have purchased an automobile from an individual or entity in another State. The check shall consist of—

(1) communicating to the operator—

(A) the vehicle identification number of the automobile for which the certificate of title is sought;

(B) the name of the State that issued the most recent certificate of title for the automobile; and

(C) the name of the individual or entity to whom the certificate of title was issued; and

(2) giving the operator an opportunity to communicate to the participating State the results of a search of the information.

(c) GRANTS TO STATES.—(1) In cooperation with the States and not later than January 1, 1994, the Attorney General shall—

(A) conduct a review of systems used by the States to compile and maintain information about the titling of automobiles; and

(B) determine for each State the cost of making titling information maintained by that State available to the operator to meet the requirements of section 30502(d) of this title.

(2) The Attorney General may make reasonable and necessary grants to participating States to be used in making titling information maintained by those States available to the operator.

(d) REPORT TO CONGRESS.—Not later than October 1, 1998, the Attorney General shall report to Congress on which States have met the requirements of this section. If a State has not met the requirements, the Attorney General shall describe the impediments that have resulted in the State's failure to meet the requirements.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 981; Pub. L. 104–152, §§2(b), (c), 3(a), 6(a), July 2, 1996, 110 Stat. 1384, 1385; Pub. L. 105–102, §3(b), Nov. 20, 1997, 111 Stat. 2215.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30503(a)	15:2043(a)(1).	Oct. 25, 1992, Pub. L. 102–519, §203, 106 Stat. 3391.
30503(b)	15:2043(a)(2).	
30503(c)	15:2043(b).	
30503(d)	15:2043(c).	

In subsection (a), the words ''for use in operating . . . established or designated'' are substituted for ''for use in establishing . . . established'' for clarity and for consistency with the source provisions restated in section 30502 of the revised title.

In subsection (b), before clause (1), the words ''The check'' are substituted for ''Such instant title verification check'' to eliminate unnecessary words. In subclauses (A) and (B), the words ''of the automobile'' are substituted for ''of the vehicle'' for consistency in the revised chapter.

In subsection (c)(1)(B), the words ''section 30502(d) of this title'' are substituted for ''subsection (b)'' to reflect the apparent intent of Congress.

In subsection (c)(2)(A), before subclause (i), the words ''is not more than the lesser of'' are substituted for ''does not exceed . . . whichever is lower'' for clarity. In subclause (i), the words ''paragraph (1)(B) of this subsection'' are substituted for ''subsection (d)(1)(B)'' to reflect the apparent intent of Congress.

In subsection (c)(2)(B), the word ''fair'' is omitted as being included in ''reasonable''.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–102 amended directory language of Pub. L. 104–152, §2(c). See 1996 Amendment note below.

1996—Subsec. (a). Pub. L. 104–152, §2(c), as amended by Pub. L. 105–102, substituted ''National Motor Vehicle Title Information System'' for ''National Automobile Title Information System''.

Subsec. (c)(1). Pub. L. 104–152, §3(a), substituted ''Attorney General'' for ''Secretary of Transportation''.

Subsec. (c)(2). Pub. L. 104–152, §6(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary may make grants to participating States to be used in making titling information maintained by those States available to the operator if—

''(A) the grant to a State is not more than the lesser of—

''(i) 25 percent of the cost of making titling information maintained by that State available to the operator as determined by the Secretary under paragraph (1)(B) of this subsection; or

''(ii) $300,000; and

''(B) the Secretary decides that the grants are reasonable and necessary to establish the System.''

Subsec. (d). Pub. L. 104–152, §§2(b), 3(a), substituted ''October 1, 1998'' for ''January 1, 1997'' and substituted ''Attorney General'' for ''Secretary'' in two places.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, §3(b), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(b) is effective July 2, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 30502 of this title; title 42 section 3750c.

§ 30504. Reporting requirements

(a) JUNK YARD AND SALVAGE YARD OPERATORS.—(1) Beginning at a time established by the Attorney General that is not sooner than the 3d month before the establishment or designation of the National Motor Vehicle Title Information System under section 30502 of this title, an individual or entity engaged in the business of operating a junk yard or salvage yard shall file a monthly report with the operator of the System. The report shall contain an inventory of all junk automobiles or salvage automobiles obtained by the junk yard or salvage yard during the prior month. The inventory shall contain—

(A) the vehicle identification number of each automobile obtained;

(B) the date on which the automobile was obtained;

(C) the name of the individual or entity from whom the automobile was obtained; and

(D) a statement of whether the automobile was crushed or disposed of for sale or other purposes.

(2) Paragraph (1) of this subsection does not apply to an individual or entity—

(A) required by State law to report the acquisition of junk automobiles or salvage automobiles to State or local authorities if those authorities make that information available to the operator; or

(B) issued a verification under section 33110 of this title stating that the automobile or parts from the automobile are not reported as stolen.

(b) INSURANCE CARRIERS.—Beginning at a time established by the Attorney General that is not sooner than the 3d month before the establishment or designation of the System, an individual or entity engaged in business as an insurance carrier shall file a monthly report with the operator. The report may be filed directly or through a designated agent. The report shall contain an inventory of all automobiles of the current model year or any of the 4 prior model years that the carrier, during the prior month, has obtained possession of and has decided are junk automobiles or salvage automobiles. The inventory shall contain—

(1) the vehicle identification number of each automobile obtained;

(2) the date on which the automobile was obtained;

(3) the name of the individual or entity from whom the automobile was obtained; and

(4) the name of the owner of the automobile at the time of the filing of the report.

(c) PROCEDURES AND PRACTICES.—The Attorney General shall establish by regulation procedures and practices to facilitate reporting in the least burdensome and costly fashion.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 982; Pub. L. 104–152, §§2(c), 3(a), July 2, 1996, 110 Stat. 1384; Pub. L. 105–102, §3(b), Nov. 20, 1997, 111 Stat. 2215.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30504(a)	15:2044(a).	Oct. 25, 1992, Pub. L. 102–519, §204(a), (b), (d), 106 Stat. 3392, 3393.
30504(b)	15:2044(b).	
30504(c)	15:2044(d).	

In subsections (a)(1), before clause (A), the words ''Beginning at a time established by the Secretary of Transportation that is not sooner than the 3d month before the establishment or designation of'' are substituted for ''Beginning at a time determined by the Secretary, but no earlier than 3 months prior to the establishment of'' for clarity and consistency with the source provisions restated in section 30502 of the revised title. The words ''engaged in the business'' are substituted for ''in the business'' for consistency in the revised chapter. The words ''junk yard or salvage yard'' are substituted for ''automobile junk yard or automobile salvage yard'' because of the definitions of ''junk yard'' and ''salvage yard'' in section 30501 of the revised title. The words ''with the operator of the System'' are substituted for ''with the operator'' for clarity. In clauses (A), (C), and (D), the words ''each automobile'' are substituted for ''each vehicle'', and the words ''the automobile'' are substituted for ''the vehicle'', for consistency in the revised title.

In subsection (a)(2)(B), the word ''automobile'' is substituted for ''vehicle'' for consistency in the revised title.

In subsections (b), before clause (1), the words ''Beginning at a time established by the Secretary that is not sooner than the 3d month before the establishment or designation of'' are substituted for ''Beginning at a time determined by the Secretary, but no earlier than 3 months prior to the establishment of'' for clarity and consistency with the source provisions restated in section 30502 of the revised title. In clauses (1), (3), and (4), the words ''each automobile'' are substituted for ''each vehicle'', and the words ''the automobile'' are substituted for ''the vehicle'', for consistency in the revised title.

AMENDMENTS

1997—Subsec. (a)(1). Pub. L. 105–102 amended directory language of Pub. L. 104–152, §2(c). See 1996 Amendment note below.

1996—Subsec. (a)(1). Pub. L. 104–152, §3(a), substituted ''Attorney General'' for ''Secretary of Transportation''.

Pub. L. 104–152, §2(c), as amended by Pub. L. 105–102, substituted ''National Motor Vehicle Title Information System'' for ''National Automobile Title Information System''.

Subsecs. (b), (c). Pub. L. 104–152, §3(a), substituted ''Attorney General'' for ''Secretary''.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, §3(b), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(b) is effective July 2, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 30502 of this title.

§ 30505. Penalties and enforcement

(a) PENALTY.—An individual or entity violating this chapter is liable to the United States Government for a civil penalty of not more than $1,000 for each violation.

(b) COLLECTION AND COMPROMISE.—(1) The Attorney General shall impose a civil penalty under this section. The Attorney General shall bring a civil action to collect the penalty. The Attorney General may compromise the amount of the penalty. In determining the amount of the penalty or compromise, the Attorney General shall consider the appropriateness of the penalty to the size of the business of the individual or entity charged and the gravity of the violation.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the individual or entity liable for the penalty.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 983; Pub. L. 104–152, §3(a), July 2, 1996, 110 Stat. 1384.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
30505	15:2044(c).	Oct. 25, 1992, Pub. L. 102–519, §204(c), 106 Stat. 3393.

In subsection (a), the words ''An individual or entity violating this chapter is liable to the United States Government for a civil penalty of'' are substituted for ''Whoever violates this section may be assessed a civil penalty of not to exceed'' for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words ''individual or entity'' are substituted for ''person'' for clarity and consistency with the source provisions restated in the revised chapter.

In subsection (b)(1), the words ''The Secretary of Transportation shall impose a civil penalty under this section. The Attorney General shall bring a civil action to collect the penalty'' are substituted for ''Any such penalty shall be assessed by the Secretary and collected in a civil action brought by the Attorney General of the United States'' for clarity and consistency in the revised title and with other titles of the Code.

In subsection (b)(2), the words ''penalty imposed or compromised'' are substituted for ''such penalty, finally determined, or the amount agreed upon in compromise'', and the words ''liable for the penalty'' are substituted for ''charged'', for clarity and consistency in the revised title and other titles of the Code.

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–152 substituted ''Attorney General shall impose'' for ''Secretary of Transportation shall impose'', ''Attorney General may compromise'' for ''Secretary may compromise'', and ''Attorney General shall consider'' for ''Secretary shall consider''.

PART B—COMMERCIAL

CHAPTER 311—COMMERCIAL MOTOR VEHICLE SAFETY

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SUBCHAPTER I—STATE GRANTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 31114, 31115 of this title.

§ 31101. Definitions

In this subchapter—

(1) ''commercial motor vehicle'' means (except in section 31106) a self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo, if the vehicle—

(A) has a gross vehicle weight rating of at least 10,000 pounds;

(B) is designed to transport more than 10 passengers including the driver; or

(C) is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 of this title.

(2) ''employee'' means a driver of a commercial motor vehicle (including an independent contractor when personally operating a commercial motor vehicle), a mechanic, a freight handler, or an individual not an employer, who—

(A) directly affects commercial motor vehicle safety in the course of employment by a commercial motor carrier; and

(B) is not an employee of the United States Government, a State, or a political subdivision of a State acting in the course of employment.

(3) ''employer''—

(A) means a person engaged in a business affecting commerce that owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate the vehicle in commerce; but

(B) does not include the Government, a State, or a political subdivision of a State.

(4) ''State'' means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 984.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31101	49 App.:2301(1), (3)–(6).	Jan. 6, 1983, Pub. L. 97–424, § 401(1), (3)–(6), 96 Stat. 2154, 2155.
	49 App.:2301(2).	Jan. 6, 1983, Pub. L. 97–424, § 401(2), 96 Stat. 2154; Oct. 30, 1984, Pub. L. 98–554, § 228(a), (b), 98 Stat. 2852.

Before clause (1), the words ''unless the context otherwise requires'' are omitted as unnecessary. The text of 49 App.:2301(4) is omitted as unnecessary because of 1:1. The text of 49 App.:2301(5) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

In clause (1), before subclause (A), the words ''(except in section 31106)'' are added because the source provisions being restated in section 31106 of the revised title contain a definition of ''commercial motor vehicle''.

In clause (4), the words ''the Commonwealth of'' are omitted for consistency in the revised title and with other titles of the United States Code.

§ 31102. Grants to States

(a) GENERAL AUTHORITY.—Subject to this section and the availability of amounts, the Secretary of Transportation may make grants to States for the development or implementation of programs for the enforcement of regulations, standards, and orders of the United States Government on commercial motor vehicle safety and compatible State regulations, standards, and orders.

(b) STATE PLAN PROCEDURES AND CONTENTS.—(1) The Secretary shall prescribe procedures for a State to submit a plan under which the State agrees to adopt and assume responsibility for enforcing regulations, standards, and orders of the Government on commercial motor vehicle safety or compatible State regulations, standards, and orders. The Secretary shall approve the plan if the Secretary decides the plan is adequate to promote the objectives of this section and the plan—

(A) designates the State motor vehicle safety agency responsible for administering the plan throughout the State;

(B) contains satisfactory assurances the agency has or will have the legal authority, resources, and qualified personnel necessary to enforce the regulations, standards, and orders;

(C) contains satisfactory assurances the State will devote adequate amounts to the administration of the plan and enforcement of the regulations, standards, and orders;

(D) provides that the total expenditure of amounts of the State and its political subdivisions (not including amounts of the Government) for commercial motor vehicle safety programs for enforcement of commercial motor vehicle size and weight limitations, drug interdiction, and State traffic safety laws and regulations under subsection (c) of this section will be maintained at a level at least equal to the average level of that expenditure for its last 3 full fiscal years before December 18, 1991;

(E) provides a right of entry and inspection to carry out the plan;

(F) provides that all reports required under this section be submitted to the agency and that the agency will make the reports available to the Secretary on request;

(G) provides that the agency will adopt the reporting requirements and use the forms for recordkeeping, inspections, and investigations the Secretary prescribes;

(H) requires registrants of commercial motor vehicles to make a declaration of knowledge of applicable safety regulations, standards, and orders of the Government and the State;

(I) provides that the State will grant maximum reciprocity for inspections conducted under the North American Inspection Standard through the use of a nationally accepted system that allows ready identification of previously inspected commercial motor vehicles;

(J) ensures that activities described in subsection (c) of this section, if financed with grants under subsection (a) of this section, will not diminish the effectiveness of the development and implementation of commercial motor vehicle safety programs described in subsection (a);

(K) ensures that fines imposed and collected by the State for violations of commercial motor vehicle safety regulations will be reasonable and appropriate and that, to the maximum extent practicable, the State will attempt to implement the recommended fine schedule published by the Commercial Vehicle Safety Alliance;

(L) ensures that the State agency will coordinate the plan prepared under this section with the State highway safety plan under section 402 of title 23;

(M) ensures participation by the 48 contiguous States in SAFETYNET not later than January 1, 1994;

(N) provides satisfactory assurances that the State will undertake efforts that will emphasize and improve enforcement of State and local traffic safety laws and regulations related to commercial motor vehicle safety;

(O) provides satisfactory assurances that the State will promote activities—

(i) to remove impaired commercial motor vehicle drivers from the highways of the United States through adequate enforcement of regulations on the use of alcohol and controlled substances and by ensuring ready roadside access to alcohol detection and measuring equipment;

(ii) to provide an appropriate level of training to State motor carrier safety assistance program officers and employees on recognizing drivers impaired by alcohol or controlled substances;

(iii) to promote enforcement of the requirements related to the licensing of commercial motor vehicle drivers, including checking the status of commercial drivers' licenses; and

(iv) to improve enforcement of hazardous material transportation regulations by encouraging more inspections of shipper facilities affecting highway transportation and more comprehensive inspection of the loads of commercial motor vehicles transporting hazardous material;

(P) provides satisfactory assurances that the State will promote effective—

(i) interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and training on appropriate strategies for carrying out those interdiction activities; and

(ii) use of trained and qualified officers and employees of political subdivisions and local governments, under the supervision and direction of the State motor vehicle safety agency, in the enforcement of regulations affecting commercial motor vehicle safety and hazardous material transportation safety; and

(Q) ensures that the State will cooperate in the enforcement of registration and financial responsibility requirements under sections 31140 and 31146, or regulations issued thereunder.

(2) If the Secretary disapproves a plan under this subsection, the Secretary shall give the State a written explanation and allow the State to modify and resubmit the plan for approval.

(3) In estimating the average level of State expenditure under paragraph (1)(D) of this subsection, the Secretary—

(A) may allow the State to exclude State expenditures for Government-sponsored demonstration or pilot programs; and

(B) shall require the State to exclude Government amounts and State matching amounts used to receive Government financing under subsection (a) of this section.

(c) USE OF GRANTS TO ENFORCE OTHER LAWS.—A State may use amounts received under a grant under subsection (a) of this section for the following activities if the activities are carried out in conjunction with an appropriate inspection of the commercial motor vehicle to enforce Government or State commercial motor vehicle safety regulations:

(1) enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States.

(2) detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle.

(3) enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles.

(d) CONTINUOUS EVALUATION OF PLANS.—On the basis of reports submitted by a State motor vehicle safety agency of a State with a plan approved under this section and the Secretary's own investigations, the Secretary shall make a continuing evaluation of the way the State is carrying out the plan. If the Secretary finds, after notice and opportunity for comment, the State plan previously approved is not being followed or has become inadequate to ensure enforcement of the regulations, standards, or orders, the Secretary shall withdraw approval of the plan and notify the State. The plan stops being effective when the notice is received. A State adversely affected by the withdrawal may seek judicial review under chapter 7 of title 5. Notwithstanding the withdrawal, the State may retain jurisdiction in administrative or judicial proceedings begun before the withdrawal if the issues involved are not related directly to the reasons for the withdrawal.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 984; Pub. L. 104–88, title I, § 104(a), Dec. 29, 1995, 109 Stat. 918.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31102(a)	49 App.:2302(a).	Jan. 6, 1983, Pub. L. 97–424, § 402(a), (c), 96 Stat. 2155, 2156.
31102(b)	49 App.:2302(b), (d).	Jan. 6, 1983, Pub. L. 97–424, § 402(b), (d), 96 Stat. 2155, 2156; Dec. 18, 1991, Pub. L. 102–240, § 4002(a), (b), 105 Stat. 2140.
31102(c)	49 App.:2302(e).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, § 402(e); added Dec. 18, 1991, Pub. L. 102–240, § 4002(c), 105 Stat. 2142.
31102(d)	49 App.:2302(c).	

In this section, the word ''rules'' is omitted as being synonymous with ''regulations''.

In subsection (a), the words ''Subject to this section and the availability of amounts'' are substituted for ''Under the terms and conditions of this section, subject to the availability of funds'' to eliminate unnecessary words.

In subsection (b)(1), before clause (A), the word ''prescribe'' is substituted for ''formulate'' for consistency in the revised title. Clause (D) is substituted for 49 App.:2302(d) to state the requirements of a plan in one place and to eliminate unnecessary words. In clause (K), the words ''into law and practice'' are omitted a unnecessary. In clause (O)(i), the words ''highways of the United States'' are substituted for ''our Nation's highways'' for consistency in the revised title and with

other titles of the United States Code. In subclause (iii), the word ''especially'' is omitted as unnecessary.

In subsection (b)(3)(B), the words ''Government financing'' are substituted for ''Federal funding'' for clarity and consistency in the revised title.

In subsection (c), before clause (1), the words ''type of'' are omitted as unnecessary. In clause (1), the word ''leave'' is substituted for ''exit'' for clarity and consistency in the revised title.

In subsection (d), the words ''the regulations, standards, or orders'' are substituted for ''Federal rules, regulations, standards, or orders applicable to commercial motor vehicle safety or compatible State rules, regulations, standards, or orders'' for consistency and to eliminate unnecessary words. The last sentence is substituted for 49 App.:2302(c) (last sentence) for clarity.

AMENDMENTS

1995—Subsec. (b)(1)(Q). Pub. L. 104–88 added subpar. (Q).

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31103, 31104, 31133, 31142, 31161 of this title.

§ 31103. United States Government's share of costs

The Secretary of Transportation shall reimburse a State, from a grant made under this subchapter, an amount that is not more than 80 percent of the costs incurred by the State in a fiscal year in developing and implementing programs to enforce commercial motor vehicle regulations, standards, or orders adopted under this subchapter or subchapter II of this chapter. In determining those costs, the Secretary shall include in-kind contributions by the State. Amounts of the State and its political subdivisions required to be expended under section 31102(b)(1)(D) of this title may not be included as part of the share not provided by the United States Government. The Secretary may allocate among the States whose applications for grants have been approved those amounts appropriated for grants to support those programs, under criteria that may be established.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 987.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31103	49 App.:2303.	Jan. 6, 1983, Pub. L. 97–424, § 403, 96 Stat. 2156; Dec. 18, 1991, Pub. L. 102–240, § 4002(d), 105 Stat. 2142.

The word ''rules'' is omitted as being synonymous with ''regulations''.

§ 31104. Availability of amounts

(a) GENERAL.—Subject to section 9503(c)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(1)), the following amounts are available from the Highway Trust Fund (except the Mass Transit Account) for the Secretary of Transportation to incur obligations to carry out section 31102 of this title:

(1) Not more than $76,000,000 for the fiscal year ending September 30, 1993.

(2) Not more than $80,000,000 for the fiscal year ending September 30, 1994.

(3) Not more than $83,000,000 for the fiscal year ending September 30, 1995.

(4) Not more than $85,000,000 for the fiscal year ending September 30, 1996.

(5) Not more than $90,000,000 for the fiscal year ending September 30, 1997.

(6) Not more than $45,000,000 for the period of October 1, 1997, through March 31, 1998.

(b) AVAILABILITY AND REALLOCATION OF AMOUNTS.—(1) Amounts made available under subsection (a) of this section remain available until expended. Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the next fiscal year. Amounts not expended by a State during those 2 fiscal years are released to the Secretary for reallocation.

(2) Amounts made available under section 404(a)(2) of the Surface Transportation Assistance Act of 1982 before October 1, 1991, that are not obligated on October 1, 1992, are available for reallocation and obligation under paragraph (1) of this subsection.

(c) REIMBURSEMENT FOR GOVERNMENT'S SHARE OF COSTS.—Amounts made available under subsection (a) of this section shall be used to reimburse States proportionately for the United States Government's share of costs incurred.

(d) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant to a State under section 31102 of this title is a contractual obligation of the Government for payment of the Government's share of costs incurred by the State in developing, implementing, or developing and implementing programs to enforce commercial motor vehicle regulations, standards, and orders.

(e) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—On October 1 of each fiscal year or as soon after that date as practicable, the Secretary may deduct, from amounts made available under subsection (a) of this section for that fiscal year, not more than 1.25 percent of those amounts for administrative expenses incurred in carrying out section 31102 of this title in that fiscal year. The Secretary shall use at least 75 percent of those deducted amounts to train non-Government employees and to develop related training materials in carrying out section 31102.

(f) ALLOCATION CRITERIA.—On October 1 of each fiscal year or as soon after that date as practicable, the Secretary, after making the deduction described in subsection (e) of this section, shall allocate under criteria the Secretary establishes the amounts available for that fiscal year among the States with plans approved under section 31102 of this title. However, the Secretary may designate specific eligible States among which to allocate those amounts in allocating amounts available—

(1) for research, development, and demonstration under subsection (g)(1)(F) of this section; and

(2) for public education under subsection (g)(1)(G) of this section.

(g) SPECIFIC ALLOCATIONS.—(1) Of amounts made available under subsection (a) of this section—

(A) for each fiscal year beginning after September 30, 1992, the Secretary shall obligate at least $1,500,000 to make grants to States for training inspectors to enforce regulations prescribed by the Secretary related to the transportation of hazardous material by commercial motor vehicles;

(B) for each of the fiscal years ending September 30, 1993–1997, the Secretary may obligate not more than $2,000,000 to carry out section 31106 of this title;

(C) for each of the fiscal years ending September 30, 1993–1997, the Secretary may obligate not more than $2,000,000 to carry out section 31107 of this title;

(D) for each of the fiscal years ending September 30, 1993–1995, the Secretary shall obligate at least $4,250,000, and for each of the fiscal years ending September 30, 1996, and 1997, the Secretary shall obligate at least $5,000,000, for traffic enforcement activities related to commercial motor vehicle drivers that are carried out in conjunction with an appropriate inspection of a commercial motor vehicle for compliance with Government or State commercial motor vehicle safety regulations;

(E) for each of the fiscal years ending September 30, 1993–1995, the Secretary shall obligate at least $1,000,000 to increase enforcement of the licensing requirements of chapter 313 of this title by motor carrier safety assistance program officers and employees, including the cost of purchasing equipment for, and conducting, inspections to check the current status of licenses issued under chapter 313;

(F) for each fiscal year, the Secretary shall obligate at least $500,000 for research, development, and demonstration of technologies, methodologies, analyses, or information systems designed to carry out section 31102 of this title and that are beneficial to all jurisdictions; and

(G) for each fiscal year, the Secretary shall obligate at least $350,000 to educate the motoring public on how to share the road safely with commercial motor vehicles.

(2) The Secretary shall announce publicly amounts obligated under paragraph (1)(F) of this subsection and award those amounts competitively, when practicable, to any eligible State for up to 100 percent of the State costs or to other persons as the Secretary decides.

(3) In carrying out educational activities referred to in paragraph (1)(G) of this subsection, the Secretary shall consult with appropriate industry representatives.

(h) PAYMENT TO STATES FOR COSTS.—Each State shall submit vouchers for costs the State incurs under this section and section 31102 of this title. The Secretary shall pay the State an amount not more than the Government share of costs incurred as of the date of the vouchers.

(i) IMPROVED ALLOCATION FORMULA.—The Secretary shall prescribe regulations to develop an improved formula and process for allocating amounts made available for grants under section 31102(a) of this title among States eligible for those amounts. In prescribing those regulations, the Secretary shall—

(1) consider ways to provide incentives to States that demonstrate innovative, successful, cost-efficient, or cost-effective programs to promote commercial motor vehicle safety and hazardous material transportation safety;

(2) place special emphasis on incentives to States that conduct traffic safety enforcement activities that are coupled with motor carrier safety inspections; and

(3) consider ways to provide incentives to States that increase compatibility of State commercial motor vehicle safety and hazardous material transportation regulations with Government safety regulations and promote other factors intended to promote effectiveness and efficiency the Secretary decides are appropriate.

(j) INTRASTATE COMPATIBILITY.—The Secretary shall prescribe regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws and regulations with Government motor carrier safety regulations to be enforced under section 31102(a) of this title. To the extent practicable, the guidelines and standards shall allow for maximum flexibility while ensuring the degree of uniformity that will not diminish transportation safety. In reviewing State plans and allocating amounts or making grants under section 153 of title 23, the Secretary shall ensure that the guidelines and standards are applied uniformly.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 987; Pub. L. 105–130, § 7, Dec. 1, 1997, 111 Stat. 2559.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31104(a)	49 App.:2304(a).	Jan. 6, 1983, Pub. L. 97–424, § 404(a), 96 Stat. 2156; restated Oct. 27, 1986, Pub. L. 99–570, § 12014, 100 Stat. 3207–186; Dec. 18, 1991, Pub. L. 102–240, § 4002(e), 105 Stat. 2142.
31104(b)	49 App.:2304(c).	Jan. 6, 1983, Pub. L. 97–424, § 404(c), 96 Stat. 2156; Oct. 27, 1986, Pub. L. 99–570, § 12014, 100 Stat. 3207–186; restated Dec. 18, 1991, Pub. L. 102–240, § 4002(f), 105 Stat. 2142.
	49 App.:2304(e).	Jan. 6, 1983, Pub. L. 97–424, § 404(b), (d), (e), 96 Stat. 2156; restated Oct. 27, 1986, Pub. L. 99–570, § 12014, 100 Stat. 3207–186.
31104(c)	49 App.:2304(b).	
31104(d)	49 App.:2304(d).	
31104(e)	49 App.:2304(f)(1).	Jan. 6, 1983, Pub. L. 97–424, § 404(f), 96 Stat. 2156; Oct. 27, 1986, Pub. L. 99–570, § 12014, 100 Stat. 3207–186; restated Dec. 18, 1991, Pub. L. 102–240, § 4002(g), 105 Stat. 2142.
31104(f)	49 App.:2304(f)(2).	
31104(g)(1) ..	49 App.:2304(g) (less last sentences of (5) and (6)).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2155, § 404(g), (h); added Dec. 18, 1991, Pub. L. 102–240, § 4002(h), (i), 105 Stat. 2143.
31104(g)(2) ..	49 App.:2304(g)(5) (last sentence).	
31104(g)(3) ..	49 App.:2304(g)(6) (last sentence).	
31104(h)	49 App.:2304(h).	
31104(i)	49 App.:2304 (note).	Dec. 18, 1991, Pub. L. 102–240, § 4002(k), 105 Stat. 2144.
31104(j)	49 App.:2302 (note).	Dec. 18, 1991, Pub. L. 102–240, § 4002(*l*), 105 Stat. 2144.

In subsection (a), the text of 49 App.:2304(a)(1) and the references to fiscal years ending September 30, 1987–1992, are omitted as obsolete.

In subsection (b), the text of 49 App.:2304(e) is omitted as superseded by 49 App.:2304(c) restated by section

4002(f) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2142) and restated in this subsection.

In subsection (b)(2), the words ''Amounts made available under section 404(a)(2) of the Surface Transportation Assistance Act of 1982 before October 1, 1991'' are substituted for ''Funds made available under this subchapter'' for clarity and because of the restatement.

In subsection (c), the words ''Funds authorized to be appropriated'' are omitted because of the omission of 49 App.:2304(a)(1) as obsolete.

In subsection (e), the words ''for administrative expenses incurred in carrying out section 31102 of this title'' are substituted for ''for administration of this section'' for clarity and consistency with the source provisions restated in this section and section 31102 of the revised title.

In subsection (i), before clause (1), the words ''Not later than 6 months after December 18, 1991'' are omitted as obsolete. The words ''for grants under section 31102(a) of this title'' are substituted for ''under the motor carrier safety assistance program'' for clarity and because of the restatement. The words ''In prescribing those regulations'' are substituted for ''In conducting such a revision'' because of the restatement.

In subsection (j), the words ''Not later than 9 months after December 18, 1991'' are omitted as obsolete. The word ''final'' is omitted as unnecessary. The words ''regulations to be enforced under section 31102(a) of this title'' are substituted for ''under the motor carrier safety assistance program'' for clarity and because of the restatement.

REFERENCES IN TEXT

Section 404(a) of the Surface Transportation Assistance Act of 1982, referred to in subsec. (b)(2), is section 404(a) of Pub. L. 97–424, which was classified to section 2304(a) of former Title 49, Transportation, and was repealed and reenacted as subsec. (a) of this section by Pub. L. 103–272, §§1(e), 7(b), July 5, 1994, 108 Stat. 987, 1379.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–130 substituted ''Not more'' for ''not more'' in pars. (1) to (5) and added par. (6).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5708, 31106, 31107, 31161, 31312, 31313, 31708 of this title; title 23 section 157.

§ 31105. Employee protections

(a) PROHIBITIONS.—(1) A person may not discharge an employee, or discipline or discriminate against an employee regarding pay, terms, or privileges of employment, because—

(A) the employee, or another person at the employee's request, has filed a complaint or begun a proceeding related to a violation of a commercial motor vehicle safety regulation, standard, or order, or has testified or will testify in such a proceeding; or

(B) the employee refuses to operate a vehicle because—

(i) the operation violates a regulation, standard, or order of the United States related to commercial motor vehicle safety or health; or

(ii) the employee has a reasonable apprehension of serious injury to the employee or the public because of the vehicle's unsafe condition.

(2) Under paragraph (1)(B)(ii) of this subsection, an employee's apprehension of serious injury is reasonable only if a reasonable individual in the circumstances then confronting the employee would conclude that the unsafe condition establishes a real danger of accident, injury, or serious impairment to health. To qualify for protection, the employee must have sought from the employer, and been unable to obtain, correction of the unsafe condition.

(b) FILING COMPLAINTS AND PROCEDURES.—(1) An employee alleging discharge, discipline, or discrimination in violation of subsection (a) of this section, or another person at the employee's request, may file a complaint with the Secretary of Labor not later than 180 days after the alleged violation occurred. On receiving the complaint, the Secretary shall notify the person alleged to have committed the violation of the filing of the complaint.

(2)(A) Not later than 60 days after receiving a complaint, the Secretary shall conduct an investigation, decide whether it is reasonable to believe the complaint has merit, and notify the complainant and the person alleged to have committed the violation of the findings. If the Secretary decides it is reasonable to believe a violation occurred, the Secretary shall include with the decision findings and a preliminary order for the relief provided under paragraph (3) of this subsection.

(B) Not later than 30 days after the notice under subparagraph (A) of this paragraph, the complainant and the person alleged to have committed the violation may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of objections does not stay a reinstatement ordered in the preliminary order. If a hearing is not requested within the 30 days, the preliminary order is final and not subject to judicial review.

(C) A hearing shall be conducted expeditiously. Not later than 120 days after the end of the hearing, the Secretary shall issue a final order. Before the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary, the complainant, and the person alleged to have committed the violation.

(3)(A) If the Secretary decides, on the basis of a complaint, a person violated subsection (a) of this section, the Secretary shall order the person to—

(i) take affirmative action to abate the violation;

(ii) reinstate the complainant to the former position with the same pay and terms and privileges of employment; and

(iii) pay compensatory damages, including back pay.

(B) If the Secretary issues an order under subparagraph (A) of this paragraph and the complainant requests, the Secretary may assess against the person against whom the order is issued the costs (including attorney's fees) reasonably incurred by the complainant in bringing the complaint. The Secretary shall determine the costs that reasonably were incurred.

(c) JUDICIAL REVIEW AND VENUE.—A person adversely affected by an order issued after a hearing under subsection (b) of this section may file a petition for review, not later than 60 days after the order is issued, in the court of appeals

of the United States for the circuit in which the violation occurred or the person resided on the date of the violation. The review shall be heard and decided expeditiously. An order of the Secretary subject to review under this subsection is not subject to judicial review in a criminal or other civil proceeding.

(d) CIVIL ACTIONS TO ENFORCE.—If a person fails to comply with an order issued under subsection (b) of this section, the Secretary shall bring a civil action to enforce the order in the district court of the United States for the judicial district in which the violation occurred.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 990.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31105(a)	49 App.:2305(a), (b).	Jan. 6, 1983, Pub. L. 97–424, § 405(a)–(d), 96 Stat. 2157.
31105(b)	49 App.:2305(c).	
31105(c)	49 App.:2305(d).	
31105(d)	49 App.:2305(e).	Jan. 6, 1983, Pub. L. 97–424, § 405(e), 96 Stat. 2158; Nov. 8, 1984, Pub. L. 98–620, § 402(51), 98 Stat. 3361.

In subsection (a)(1), before clause (A), the words ''in any manner'' are omitted as surplus. The word ''conditions'' is omitted as included in ''terms''. In clauses (A) and (B), the word ''rule'' is omitted as being synonymous with ''regulation''. In clause (A), the word ''begun'' is substituted for ''instituted or caused to be instituted'' for consistency in the revised title and to eliminate unnecessary words. In clause (B), the words before subclause (i) are substituted for ''for refusing to operate a vehicle when'' and ''or because of'' for clarity and consistency. In subclause (ii), the words ''vehicle's unsafe condition'' are substituted for ''unsafe condition of such equipment'' for consistency.

Subsection (a)(2) is substituted for 49 App.:2305(b) (2d, last sentences) for clarity and to eliminate unnecessary words.

In subsection (b)(1), the words ''alleging such discharge, discipline, or discrimination'' are omitted as surplus.

In subsection (b)(2)(B), the words ''Not later than 30 days after the notice under subparagraph (A) of this paragraph'' are substituted for ''Thereafter'' and ''within thirty days'' for clarity.

In subsection (b)(2)(C), the words ''Before the final order is issued'' are substituted for ''In the interim'' for clarity.

Subsection (b)(3)(A) is substituted for 49 App.:2305(c)(2)(B) (1st sentence) for clarity and to eliminate unnecessary words. In clause (ii), the word ''conditions'' is omitted as included in ''terms''. The provision for back pay is moved from clause (ii) to clause (iii) for clarity.

In subsection (b)(3)(B), the words ''a sum equal to the aggregate amount of all'' and ''and expenses'' are omitted as surplus. The words ''in bringing the complaint'' are substituted for ''for, or in connection with, the bringing of the complaint upon which the order was issued'' to eliminate unnecessary words.

In subsection (c), the words ''or aggrieved'' and ''with respect to which the order was issued, allegedly'' are omitted as surplus. The words ''in accordance with the provisions of chapter 7 of title 5 and'' are omitted because 5:ch. 7 applies unless otherwise stated.

In subsection (d), the text of 49 App.:2305(e) (last sentence) is omitted as unnecessary.

§ 31106. Commercial motor vehicle information system program

(a) DEFINITION.—In this section, ''commercial motor vehicle'' means a self-propelled or towed vehicle used on highways in intrastate or interstate commerce to transport passengers or property, if the vehicle—

(1) has a gross vehicle weight rating of at least 10,001 pounds;

(2) is designed to transport more than 15 passengers, including the driver; or

(3) is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 of this title and that material is transported in a quantity requiring placarding under regulations the Secretary prescribes under section 5103.

(b) INFORMATION SYSTEM.—(1) In cooperation with the States, the Secretary may establish as part of the motor carrier safety information network system of the Department of Transportation and similar State systems, an information system to serve as a clearinghouse and depository of information related to State registration and licensing of commercial motor vehicles and the safety fitness of the commercial motor vehicle registrants. The Secretary shall include in the system information on the safety fitness of each of the registrants and other information the Secretary considers appropriate, including information on vehicle inspections and out-of-service orders.

(2) The operation of the information system established under paragraph (1) of this subsection shall be paid for by a schedule of user fees. The Secretary may authorize the operation of the information system by contract, through an agreement with one or more States, or by designating, after consulting with the States, a third party that represents the interests of the States.

(3) The Secretary shall prescribe standards to ensure—

(A) uniform information collection and reporting by the States necessary to carry out this section; and

(B) the availability and reliability of the information to the States and the Secretary from the information system.

(c) DEMONSTRATION PROJECT.—The Secretary shall make grants to States to carry out a project to demonstrate ways of establishing an information system that will link the motor carrier safety information network system of the Department and similar State systems with the motor vehicle registration and licensing systems of the States. The project shall be designed—

(1) to allow a State when issuing license plates for a commercial motor vehicle to establish through use of the information system the safety fitness of the person seeking to register the vehicle; and

(2) to decide on types of sanctions that may be imposed on the registrant, or the types of conditions or limitations that may be imposed on the operations of the registrant, to ensure the safety fitness of the registrant.

(d) REVIEW OF STATE SYSTEMS.—Not later than December 18, 1992, the Secretary, in cooperation with the States, shall review State motor vehicle registration systems related to license tags for commercial motor vehicles to decide whether those systems can be used in carrying out this section.

(e) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.

(f) REPORT TO CONGRESS.—Not later than January 1, 1995, the Secretary shall submit a report to Congress on the cost, benefits, and feasibility of the information system established under subsection (b) of this section. If the Secretary decides that the system would be beneficial on a nationwide basis, the Secretary shall include in the report recommendations on legislation to implement a nationwide system.

(g) AUTHORIZATION OF APPROPRIATIONS.—Amounts necessary to carry out this section may be made available to the Secretary under section 31104(g)(1)(B) of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 991.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31106(a)	49 App.:2306(f).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2155, § 407; added Dec. 18, 1991, Pub. L. 102–240, § 4003, 105 Stat. 2144.
31106(b)	49 App.:2306(a)(2)–(5).	
31106(c)	49 App.:2306(b).	
31106(d)	49 App.:2306(a)(1).	
31106(e)	49 App.:2306(c).	
31106(f)	49 App.:2306(d).	
31106(g)	49 App.:2306(e).	

In subsection (b)(2), the word ''schedule'' is substituted for ''system'' for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31101, 31104 of this title.

§ 31107. Truck and bus accident grant program

(a) STATE GRANTS.—The Secretary of Transportation shall make grants to States that agree to adopt or have adopted the recommendations of the National Governors' Association related to police accident reports for truck and bus accidents. The Secretary may make a grant under this section only to assist a State in carrying out those recommendations, including—

(1) assisting the State in designing appropriate forms;

(2) drafting instruction manuals;

(3) training appropriate State and local officers on matters, including training on accident investigation techniques to decide on the probable cause of truck and bus accidents;

(4) analyzing and evaluating safety information to develop recommended changes to existing safety programs necessary to address more effectively the causes of truck and bus accidents; and

(5) other activities the Secretary decides are appropriate to carry out this section.

(b) COORDINATION WITH OTHER PROGRAMS.—The Secretary shall coordinate grants made under this section with highway safety programs under section 402 of title 23. The Secretary may require that the information from police reports for truck and bus accidents be included in reports made to the Secretary under the uniform information collection and reporting program under section 402.

(c) AUTHORIZATION OF APPROPRIATIONS.—Amounts necessary to carry out this section may be made available to the Secretary under section 31104(g)(1)(C) of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 992.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31107	49 App.:2307.	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2155, § 408; added Dec. 18, 1991, Pub. L. 102–240, § 4004, 105 Stat. 2146.

In subsection (a)(3), the words ''on matters, including training on accident'' are substituted for ''including training on accident'' for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31104 of this title.

§ 31108. Authorization of appropriations

Not more than $_____ may be appropriated to the Secretary of Transportation for the fiscal year ending September 30, 19__, to carry out the safety duties and powers of the Federal Highway Administration.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 993.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31108	(uncodified).	Dec. 18, 1991, Pub. L. 102–240, § 4002(j), 105 Stat. 2144.

The words ''safety duties and powers'' are substituted for ''safety functions'' for clarity and consistency in the revised title. The reference to fiscal year 1992 is omitted as obsolete.

SUBCHAPTER II—LENGTH AND WIDTH LIMITATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 31103 of this title.

§ 31111. Length limitations

(a) DEFINITIONS.—In this section—

(1) ''maxi-cube vehicle'' means a truck tractor combined with a semitrailer and a separable property-carrying unit designed to be loaded and unloaded through the semitrailer, with the length of the separable property-carrying unit being not more than 34 feet and the length of the vehicle combination being not more than 65 feet.

(2) ''truck tractor'' means—

(A) a non-property-carrying power unit that operates in combination with a semitrailer or trailer; or

(B) a power unit that carries as property only motor vehicles when operating in combination with a semitrailer in transporting motor vehicles.

(b) GENERAL LIMITATIONS.—(1) Except as provided in this section, a State may not prescribe or enforce a regulation of commerce that—

(A) imposes a vehicle length limitation of less than 45 feet on a bus, of less than 48 feet on a semitrailer operating in a truck tractor-semitrailer combination, or of less than 28 feet

on a semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination, on any segment of the Dwight D. Eisenhower System of Interstate and Defense Highways (except a segment exempted under subsection (f) of this section) and those classes of qualifying Federal-aid Primary System highways designated by the Secretary of Transportation under subsection (e) of this section;

(B) imposes an overall length limitation on a commercial motor vehicle operating in a truck tractor-semitrailer or truck tractor-semitrailer-trailer combination;

(C) has the effect of prohibiting the use of a semitrailer or trailer of the same dimensions as those that were in actual and lawful use in that State on December 1, 1982;

(D) has the effect of prohibiting the use of an existing semitrailer or trailer, of not more than 28.5 feet in length, in a truck tractor-semitrailer-trailer combination if the semitrailer or trailer was operating lawfully on December 1, 1982, within a 65-foot overall length limit in any State; or

(E) imposes a limitation of less than 46 feet on the distance from the kingpin to the center of the rear axle on trailers used exclusively or primarily in connection with motorsports competition events.

(2) A length limitation prescribed or enforced by a State under paragraph (1)(A) of this subsection applies only to a semitrailer or trailer and not to a truck tractor.

(c) MAXI-CUBE AND VEHICLE COMBINATION LIMITATIONS.—A State may not prohibit a maxi-cube vehicle or a commercial motor vehicle combination consisting of a truck tractor and 2 trailing units on any segment of the Dwight D. Eisenhower System of Interstate and Defense Highways (except a segment exempted under subsection (f) of this section) and those classes of qualifying Federal-aid Primary System highways designated by the Secretary under subsection (e) of this section.

(d) EXCLUSION OF SAFETY AND ENERGY CONSERVATION DEVICES.—Length calculated under this section does not include a safety or energy conservation device the Secretary decides is necessary for safe and efficient operation of a commercial motor vehicle. However, such a device may not have by its design or use the ability to carry cargo.

(e) QUALIFYING HIGHWAYS.—The Secretary by regulation shall designate as qualifying Federal-aid Primary System highways those highways of the Federal-aid Primary System in existence on June 1, 1991, that can accommodate safely the applicable vehicle lengths provided in this section.

(f) EXEMPTIONS.—(1) If the chief executive officer of a State, after consulting under paragraph (2) of this subsection, decides a segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having a length described in subsection (b)(1)(A) of this section or the motor vehicle combination described in subsection (c) of this section, the chief executive officer may notify the Secretary of that decision and request the Secretary to exempt that segment from either or both provisions.

(2) Before making a decision under paragraph (1) of this subsection, the chief executive officer shall consult with units of local government in the State in which the segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is located and with the chief executive officer of any adjacent State that may be directly affected by the exemption. As part of the consultations, consideration shall be given to any potential alternative route that serves the area in which the segment is located and can safely accommodate a commercial motor vehicle having a length described in subsection (b)(1)(A) of this section or the motor vehicle combination described in subsection (c) of this section.

(3) A chief executive officer's notification under this subsection must include specific evidence of safety problems supporting the officer's decision and the results of consultations about alternative routes.

(4)(A) If the Secretary decides, on request of a chief executive officer or on the Secretary's own initiative, a segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having a length described in subsection (b)(1)(A) of this section or the motor vehicle combination described in subsection (c) of this section, the Secretary shall exempt the segment from either or both of those provisions. Before making a decision under this paragraph, the Secretary shall consider any possible alternative route that serves the area in which the segment is located.

(B) The Secretary shall make a decision about a specific segment not later than 120 days after the date of receipt of notification from a chief executive officer under paragraph (1) of this subsection or the date on which the Secretary initiates action under subparagraph (A) of this paragraph, whichever is applicable. If the Secretary finds the decision will not be made in time, the Secretary immediately shall notify Congress, giving the reasons for the delay, information about the resources assigned, and the projected date for the decision.

(C) Before making a decision, the Secretary shall give an interested person notice and an opportunity for comment. If the Secretary exempts a segment under this subsection before the final regulations under subsection (e) of this section are prescribed, the Secretary shall include the exemption as part of the final regulations. If the Secretary exempts the segment after the final regulations are prescribed, the Secretary shall publish the exemption as an amendment to the final regulations.

(g) ACCOMMODATING SPECIALIZED EQUIPMENT.—In prescribing regulations to carry out this section, the Secretary may make decisions necessary to accommodate specialized equipment, including automobile and vessel transporters and maxi-cube vehicles.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 993; Pub. L. 104–88, title I, §104(b), Dec. 29, 1995, 109 Stat. 919.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31111(a)(1) ..	49 App.:2311(f)(2).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, §411(f)(2); added Oct. 18, 1986, Pub. L. 99–500, §101(*l*) [H.R. 5205, §324(a)], 100 Stat. 1783–308, and Oct. 30, 1986, Pub. L. 99–591, §101(*l*) [H.R. 5205, §324(a)], 100 Stat. 3341–308; Dec. 22, 1987, Pub. L. 100–202, §106, 101 Stat. 1329–433.
31111(a)(2) ..	49 App.:2311(f)(1).	Jan. 6, 1983, Pub. L. 97–424, §411(f)(1), 96 Stat. 2160; Oct. 18, 1986, Pub. L. 99–500, §101(*l*) [H.R. 5205, §324(a)], 100 Stat. 1783–308; Oct. 30, 1986, Pub. L. 99–591, §101(*l*) [H.R. 5205, §324(a)], 100 Stat. 3341–308; Dec. 22, 1987, Pub. L. 100–202, §106, 101 Stat. 1329–433.
31111(b)	49 App.:2311(a).	Jan. 6, 1983, Pub. L. 97–424, §411(a), 96 Stat. 2159; Oct. 30, 1984, Pub. L. 98–554, §104(a), 98 Stat. 2831; Dec. 18, 1991, Pub. L. 102–240, §4006(b)(1), 105 Stat. 2151.
	49 App.:2311(b).	Jan. 6, 1983, Pub. L. 97–424, §411(b), (g), (h), 96 Stat. 2159, 2160.
31111(c)	49 App.:2311(c).	Jan. 6, 1983, Pub. L. 97–424, §411(c), 96 Stat. 2159; Oct. 30, 1984, Pub. L. 98–554, §104(b), 98 Stat. 2831; Oct. 18, 1986, Pub. L. 99–500, §101(*l*) [H.R. 5205, §324(b)], 100 Stat. 1783–308; Oct. 30, 1986, Pub. L. 99–591, §101(*l*) [H.R. 5205, §324(b)], 100 Stat. 3341–308; Dec. 22, 1987, Pub. L. 100–202, §106, 101 Stat. 1329–433.
31111(d)	49 App.:2311(h).	
31111(e)	49 App.:2311(e).	Jan. 6, 1983, Pub. L. 97–424, §411(e), 96 Stat. 2160; Dec. 18, 1991, Pub. L. 102–240, §4006(c), 105 Stat. 2151.
31111(f)	49 App.:2311(i).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, §411(i); added Oct. 30, 1984, Pub. L. 98–554, §102, 98 Stat. 2829.
31111(g)	49 App.:2311(d).	Jan. 6, 1983, Pub. L. 97–424, §411(d), 96 Stat. 2160; Apr. 2, 1987, Pub. L. 100–17, §133(a)(7), 101 Stat. 171; Nov. 5, 1990, Pub. L. 101–516, §327(a), 104 Stat. 2182.
	49 App.:2311(g).	

In this section, the words ''Dwight D. Eisenhower System of Interstate and Defense Highways'' are substituted for ''National System of Interstate and Defense Highways'' because of the Act of October 15, 1990 (Public Law 101–427, 104 Stat. 927).

In subsection (a), the word ''property'' is substituted for ''cargo'' for consistency in the revised title.

Subsection (b)(1) is substituted for 49 App.:2311(a) and (b) (2d–last sentences) to eliminate unnecessary words and for consistency in the revised title and with other titles of the United States Code. Hyphens are used in describing the combinations ''truck tractor-semitrailer'' and ''truck tractor-semitrailer-trailer'' for consistency. In clause (D), the word ''actually'' is omitted as surplus.

Subsection (b)(2) is substituted for 49 App.:2311(b) (1st sentence) because of the restatement.

In subsection (d), the words ''such as rear view mirrors, turn signal lamps, marker lamps, steps and handholds for entry and egress, flexible fender extensions, mudflaps and splash and spray suppressant devices, load-induced tire bulge, refrigeration units or air compressors and other devices'' are omitted as unnecessary and because most items listed relate to width rather than length.

In subsection (e), the words ''by regulation'' are added for clarity. The words ''subject to the provisions of subsections (a) and (c) of this section'' are omitted as surplus. The text of 49 App.:2311(e)(2) and (3) is omitted as executed.

In subsection (f), the word ''commercial'' is added before ''motor vehicle'' for consistency.

In subsection (f)(4)(C), the reference to regulations prescribed under subsection (e) is substituted for the reference in the source to regulations issued under subsection (a) to be more precise. The word ''amendment'' is substituted for ''revision'' for consistency in the revised title.

Subsection (g) is substituted for 49 App.:2311(d) to eliminate unnecessary words. The Secretary's general authority to prescribe regulations is provided in 49:322(a). The word ''vessel'' is substituted for ''boat'' because of 1:3. The text of 49 App.:2311(g) is omitted as executed.

AMENDMENTS

1995—Subsec. (b)(1)(E). Pub. L. 104–88 added subpar. (E).

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5112, 31112, 31114 of this title; title 23 section 127.

§ 31112. Property-carrying unit limitation

(a) DEFINITIONS.—In this section—

(1) ''property-carrying unit'' means any part of a commercial motor vehicle combination (except the truck tractor) used to carry property, including a trailer, a semitrailer, or the property-carrying section of a single unit truck.

(2) the length of the property-carrying units of a commercial motor vehicle combination is the length measured from the front of the first property-carrying unit to the rear of the last property-carrying unit.

(b) GENERAL LIMITATIONS.—A State may not allow by any means the operation, on any segment of the Dwight D. Eisenhower System of Interstate and Defense Highways and those classes of qualifying Federal-aid Primary System highways designated by the Secretary of Transportation under section 31111(e) of this title, of any commercial motor vehicle combination (except a vehicle or load that cannot be dismantled easily or divided easily and that has been issued a special permit under applicable State law) with more than one property-carrying unit (not including the truck tractor) whose property-carrying units are more than—

(1) the maximum combination trailer, semitrailer, or other type of length limitation allowed by law or regulation of that State before June 2, 1991; or

(2) the length of the property-carrying units of those commercial motor vehicle combinations, by specific configuration, in actual, lawful operation on a regular or periodic basis (including continuing seasonal operation) in that State before June 2, 1991.

(c) SPECIAL RULES FOR WYOMING, OHIO, ALASKA, AND IOWA.—In addition to the vehicles allowed under subsection (b) of this section—

(1) Wyoming may allow the operation of additional vehicle configurations not in actual operation on June 1, 1991, but authorized by State law not later than November 3, 1992, if

the vehicle configurations comply with the single axle, tandem axle, and bridge formula limits in section 127(a) of title 23 and are not more than 117,000 pounds gross vehicle weight;

(2) Ohio may allow the operation of commercial motor vehicle combinations with 3 property-carrying units of 28.5 feet each (not including the truck tractor) not in actual operation on June 1, 1991, to be operated in Ohio on the 1-mile segment of Ohio State Route 7 that begins at and is south of exit 16 of the Ohio Turnpike;

(3) Alaska may allow the operation of commercial motor vehicle combinations that were not in actual operation on June 1, 1991, but were in actual operation before July 6, 1991; and

(4) Iowa may allow the operation on Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota or on Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska of commercial motor vehicle combinations with trailer length, semitrailer length, and property-carrying unit length allowed by law or regulation and in actual lawful operation on a regular or periodic basis (including continued seasonal operation) in South Dakota or Nebraska, respectively, before June 2, 1991.

(d) ADDITIONAL LIMITATIONS.—(1) A commercial motor vehicle combination whose operation in a State is not prohibited under subsections (b) and (c) of this section may continue to operate in the State on highways described in subsection (b) only if at least in compliance with all State laws, regulations, limitations, and conditions, including routing-specific and configuration-specific designations and all other restrictions in force in the State on June 1, 1991. However, subject to regulations prescribed by the Secretary under subsection (g)(2) of this section, the State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions in effect on June 1, 1991, for specific safety purposes and road construction.

(2) This section does not prevent a State from further restricting in any way or prohibiting the operation of any commercial motor vehicle combination subject to this section, except that a restriction or prohibition shall be consistent with this section and sections 31113(a) and (b) and 31114 of this title.

(3) A State making a minor adjustment of a temporary and emergency nature as authorized by paragraph (1) of this subsection or further restricting or prohibiting the operation of a commercial motor vehicle combination as authorized by paragraph (2) of this subsection shall advise the Secretary not later than 30 days after the action. The Secretary shall publish a notice of the action in the Federal Register.

(4)[1] Nebraska may continue to allow to be operated under paragraphs (b)(1) and (b)(2) of this section,[2] the State of Nebraska may allow longer combination vehicles that were not in actual operation on June 1, 1991 to be operated within its boundaries to transport sugar beets from the field where such sugar beets are harvested to storage, market, factory or stockpile or from stockpile to storage, market or factory. This provision shall expire on February 28, 1998.

(e) LIST OF STATE LENGTH LIMITATIONS.—(1) Not later than February 16, 1992, each State shall submit to the Secretary for publication a complete list of State length limitations applicable to commercial motor vehicle combinations operating in the State on the highways described in subsection (b) of this section. The list shall indicate the applicable State laws and regulations associated with the length limitations. If a State does not submit the information as required, the Secretary shall complete and file the information for the State.

(2) Not later than March 17, 1992, the Secretary shall publish an interim list in the Federal Register consisting of all information submitted under paragraph (1) of this subsection. The Secretary shall review for accuracy all information submitted by a State under paragraph (1) and shall solicit and consider public comment on the accuracy of the information.

(3) A law or regulation may not be included on the list submitted by a State or published by the Secretary merely because it authorized, or could have authorized, by permit or otherwise, the operation of commercial motor vehicle combinations not in actual operation on a regular or periodic basis before June 2, 1991.

(4) Except as revised under this paragraph or paragraph (5) of this subsection, the list shall be published as final in the Federal Register not later than June 15, 1992. In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under paragraph (2) of this subsection. After publication of the final list, commercial motor vehicle combinations prohibited under subsection (b) of this section may not operate on the Dwight D. Eisenhower System of Interstate and Defense Highways and other Federal-aid Primary System highways designated by the Secretary except as published on the list. The list may be combined by the Secretary with the list required under section 127(d) of title 23.

(5) On the Secretary's own motion or on request by any person (including a State), the Secretary shall review the list published under paragraph (4) of this subsection. If the Secretary decides there is reason to believe a mistake was made in the accuracy of the list, the Secretary shall begin a proceeding to decide whether a mistake was made. If the Secretary decides there was a mistake, the Secretary shall publish the correction.

(f) LIMITATIONS ON STATUTORY CONSTRUCTION.—This section may not be construed—

(1) to allow the operation on any segment of the Dwight D. Eisenhower System of Interstate and Defense Highways of a longer combination vehicle prohibited under section 127(d) of title 23;

(2) to affect in any way the operation of a commercial motor vehicle having only one property-carrying unit; or

(3) to affect in any way the operation in a State of a commercial motor vehicle with more than one property-carrying unit if the

[1] See 1996 Amendment note below.

[2] So in original.

vehicle was in actual operation on a regular or periodic basis (including seasonal operation) in that State before June 2, 1991, that was authorized under State law or regulation or lawful State permit.

(g) REGULATIONS.—(1) In carrying out this section only, the Secretary shall define by regulation loads that cannot be dismantled easily or divided easily.

(2) Not later than June 15, 1992, the Secretary shall prescribe regulations establishing criteria for a State to follow in making minor adjustments under subsection (d) of this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 995; Pub. L. 104–59, title III, § 312(a)(3), Nov. 28, 1995, 109 Stat. 584; Pub. L. 104–205, title III, § 352, Sept. 30, 1996, 110 Stat. 2980; Pub. L. 105–66, title III, § 343, Oct. 27, 1997, 111 Stat. 1449.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31112(a)(1) ..	49 App.:2311(j)(7).	Jan 6, 1983, Pub. L. 97–424, 96 Stat. 2159, § 411(j); added Dec. 18, 1991, Pub. L. 102–240, § 4006(a), 105 Stat. 2148.
31112(a)(2) ..	49 App.:2311(j)(3).	
31112(b)	49 App.:2311(j)(1).	
31112(c)	49 App.:2311(j)(2).	
31112(d)	49 App.:2311(j)(4).	
31112(e)	49 App.:2311(j)(5).	
31112(f)	49 App.:2311(j)(6).	
31112(g)(1) ..	49 App.:2311(j)(9).	
31112(g)(2) ..	49 App.:2311(j)(8).	

In this section, the word ''property'' is substituted for ''cargo'', and the word ''law'' is substituted for ''statute'', for consistency in the revised title. The words ''Dwight D. Eisenhower System of Interstate and Defense Highways'' are substituted for ''National System of Interstate and Defense Highways'' because of the Act of October 15, 1990 (Public Law 101–427, 104 Stat. 927).

In subsections (b), before clause (1), and (g)(1), the words ''dismantled easily or divided easily'' are substituted for ''easily dismantled or divided'' for clarity.

In subsection (e)(4), the words ''Except as revised under this paragraph or paragraph (5) of this subsection'' are substituted for ''Except as modified pursuant to subparagraph (B) or (E) of this subsection'' for clarity.

AMENDMENTS

1997—Subsec. (d)(4). Pub. L. 105–66 substituted ''February 28, 1998'' for ''September 30, 1997''.

1996—Subsec. (d)(4). Pub. L. 104–205, which directed amendment of this section by adding a new subsection designated par. (4) without specifying where, was executed by adding par. (4) to subsec. (d) to reflect the probable intent of Congress.

1995—Subsec. (c). Pub. L. 104–59 substituted ''Alaska, and Iowa'' for ''and Alaska'' in heading and added par. (4).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 23 sections 127, 141.

§ 31113. Width limitations

(a) GENERAL LIMITATIONS.—(1) Except as provided in subsection (e) of this section, a State (except Hawaii) may not prescribe or enforce a regulation of commerce that imposes a vehicle width limitation of more or less than 102 inches on a commercial motor vehicle operating on—

(A) a segment of the Dwight D. Eisenhower System of Interstate and Defense Highways (except a segment exempted under subsection (e) of this section);

(B) a qualifying Federal-aid highway designated by the Secretary of Transportation, with traffic lanes designed to be at least 12 feet wide; or

(C) a qualifying Federal-aid Primary System highway designated by the Secretary if the Secretary decides the designation is consistent with highway safety.

(2) Notwithstanding paragraph (1) of this subsection, a State may continue to enforce a regulation of commerce in effect on April 6, 1983, that applies to a commercial motor vehicle of more than 102 inches in width, until the date on which the State prescribes a regulation of commerce that complies with this subsection.

(3) A Federal-aid highway (except an interstate highway) not designated under this subsection on June 5, 1984, may be designated under this subsection only with the agreement of the chief executive officer of the State in which the highway is located.

(b) EXCLUSION OF SAFETY AND ENERGY CONSERVATION DEVICES.—Width calculated under this section does not include a safety or energy conservation device the Secretary decides is necessary for safe and efficient operation of a commercial motor vehicle.

(c) SPECIAL USE PERMITS.—A State may grant a special use permit to a commercial motor vehicle that is more than 102 inches in width.

(d) STATE ENFORCEMENT.—Consistent with this section, a State may enforce a commercial motor vehicle width limitation of 102 inches on a segment of the Dwight D. Eisenhower System of Interstate and Defense Highways (except a segment exempted under subsection (e) of this section) or other qualifying Federal-aid highway designated by the Secretary.

(e) EXEMPTIONS.—(1) If the chief executive officer of a State, after consulting under paragraph (2) of this subsection, decides a segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having the width provided in subsection (a) of this section, the chief executive officer may notify the Secretary of that decision and request the Secretary to exempt that segment from subsection (a) to allow the State to impose a width limitation of less than 102 inches for a vehicle (except a bus) on that segment.

(2) Before making a decision under paragraph (1) of this subsection, the chief executive officer shall consult with units of local government in the State in which the segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is located and with the chief executive officer of any adjacent State that may be directly affected by the exemption. As part of the consultations, consideration shall be given to any potential alternative route that serves the area in which the segment is located and can safely accommodate a commercial motor vehicle having the width provided for in subsection (a) of this section.

(3) A chief executive officer's notification under this subsection must include specific evidence of safety problems supporting the officer's decision and the results of consultations about alternative routes.

(4)(A) If the Secretary decides, on request of a chief executive officer or on the Secretary's own

initiative, a segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having a width provided in subsection (a) of this section, the Secretary shall exempt the segment from subsection (a) to allow the State to impose a width limitation of less than 102 inches for a vehicle (except a bus) on that segment. Before making a decision under this paragraph, the Secretary shall consider any possible alternative route that serves the area in which the segment is located.

(B) The Secretary shall make a decision about a specific segment not later than 120 days after the date of receipt of notification from a chief executive officer under paragraph (1) of this subsection or the date on which the Secretary initiates action under subparagraph (A) of this paragraph, whichever is applicable. If the Secretary finds the decision will not be made in time, the Secretary immediately shall notify Congress, giving the reasons for the delay, information about the resources assigned, and the projected date for the decision.

(C) Before making a decision, the Secretary shall give an interested person notice and an opportunity for comment. If the Secretary exempts a segment under this subsection before the final regulations under subsection (a) of this section are prescribed, the Secretary shall include the exemption as part of the final regulations. If the Secretary exempts the segment after the final regulations are prescribed, the Secretary shall publish the exemption as an amendment to the final regulations.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 997.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31113(a)	49 App.:2316(a), (f).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, § 416(a), (d), (f); added Apr. 5, 1983, Pub. L. 98–17, § 1(a), 97 Stat. 59; Oct. 30, 1984, Pub. L. 98–554, §§ 103(1), 104(d), (e), 105, 98 Stat. 2830, 2831.
31113(b)	49 App.:2316(b).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, § 416(b), (c); added Apr. 5, 1983, Pub. L. 98–17, § 1(a), 97 Stat. 59.
31113(c)	49 App.:2316(c).	
31113(d)	49 App.:2316(d).	
31113(e)	49 App.:2316(e).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, § 416(e); added Oct. 30, 1984, Pub. L. 98–554, § 103(2), 98 Stat. 2830.

In this section, the word ''commercial'' is added before ''motor vehicle'' for consistency. The words ''Dwight D. Eisenhower System of Interstate and Defense Highways'' are substituted for ''National System of Interstate and Defense Highways'' because of the Act of October 15, 1990 (Public Law 101–427, 104 Stat. 927).

In subsection (a)(1), before clause (A), the text of 49 App.:2316(f) is omitted as obsolete. The word ''prescribe'' is substituted for ''establish, maintain'' for consistency in the revised title and with other titles of the United States Code. The words ''a commercial motor vehicle operating on'' are added for clarity.

In subsection (b), the words ''or energy conservation'' are added for consistency with section 31111(d) of the revised title and because of the reference to ''efficient operation''.

In subsection (e)(4)(C), the word ''amendment'' is substituted for ''revision'' for consistency in the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5112, 31112, 31114 of this title; title 23 section 127.

§ 31114. Access to the Interstate System

(a) PROHIBITION ON DENYING ACCESS.—A State may not enact or enforce a law denying to a commercial motor vehicle subject to this subchapter or subchapter I of this chapter reasonable access between—

(1) the Dwight D. Eisenhower System of Interstate and Defense Highways (except a segment exempted under section 31111(f) or 31113(e) of this title) and other qualifying Federal-aid Primary System highways designated by the Secretary of Transportation; and

(2) terminals, facilities for food, fuel, repairs, and rest, and points of loading and unloading for household goods carriers, motor carriers of passengers, or any truck tractor-semitrailer combination in which the semitrailer has a length of not more than 28.5 feet and that generally operates as part of a vehicle combination described in section 31111(c) of this title.

(b) EXCEPTION.—This section does not prevent a State or local government from imposing reasonable restrictions, based on safety considerations, on a truck tractor-semitrailer combination in which the semitrailer has a length of not more than 28.5 feet and that generally operates as part of a vehicle combination described in section 31111(c) of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 999.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31114(a)	49 App.:2312(a).	Jan. 6, 1983, Pub. L. 97–424, § 412, 96 Stat. 2160; Oct. 30, 1984, Pub. L. 98–554, §§ 104(c), 106, 98 Stat. 2831, 2832; Dec. 18, 1991, Pub. L. 102–240, § 4006(b)(2), 105 Stat. 2151.
31114(b)	49 App.:2312(b).	

In subsection (a), the words ''Dwight D. Eisenhower System of Interstate and Defense Highways'' are substituted for ''Interstate and Defense Highway System'' for consistency in the revised chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31112 of this title; title 23 section 127.

§ 31115. Enforcement

On the request of the Secretary of Transportation, the Attorney General shall bring a civil action for appropriate injunctive relief to ensure compliance with this subchapter or subchapter I of this chapter. The action may be brought in a district court of the United States in any State in which the relief is required. On a proper showing, the court shall issue a temporary restraining order or preliminary or permanent injunction. An injunction under this section may order a State or person to comply with this subchapter, subchapter I, or a regulation prescribed under this subchapter or subchapter I.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 999.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31115	49 App.:2313.	Jan. 6, 1983, Pub. L. 97–424, §413, 96 Stat. 2160; Oct. 30, 1984, Pub. L. 98–554, §214, 98 Stat. 2844.

The words ''to assure compliance with the terms of this chapter'' and ''In any action under this section'' are omitted as surplus. The last sentence is substituted for 49 App.:2313 (last sentence) for clarity and to eliminate unnecessary words.

SUBCHAPTER III—SAFETY REGULATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 507, 521, 526 of this title.

§ 31131. Purposes and findings

(a) PURPOSES.—The purposes of this subchapter are—

(1) to promote the safe operation of commercial motor vehicles;

(2) to minimize dangers to the health of operators of commercial motor vehicles and other employees whose employment directly affects motor carrier safety; and

(3) to ensure increased compliance with traffic laws and with the commercial motor vehicle safety and health regulations and standards prescribed and orders issued under this chapter.

(b) FINDINGS.—Congress finds—

(1) it is in the public interest to enhance commercial motor vehicle safety and thereby reduce highway fatalities, injuries, and property damage;

(2) improved, more uniform commercial motor vehicle safety measures and strengthened enforcement would reduce the number of fatalities and injuries and the level of property damage related to commercial motor vehicle operations;

(3) enhanced protection of the health of commercial motor vehicle operators is in the public interest; and

(4) interested State governments can provide valuable assistance to the United States Government in ensuring that commercial motor vehicle operations are conducted safely and healthfully.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 999.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31131(a)	49 App.:2501.	Oct. 30, 1984, Pub. L. 98–554, §§202, 203, 98 Stat. 2832.
31131(b)	49 App.:2502.	

In subsection (a)(3), the words ''this chapter'' are substituted for ''this Act'' because title II of the Act of October 30, 1984 (Public Law 98–554, 98 Stat. 2832), amended and enacted provisions restated in this chapter.

§ 31132. Definitions

In this subchapter—

(1) ''commercial motor vehicle'' means a self-propelled or towed vehicle used on the highways in interstate commerce to transport passengers or property, if the vehicle—

(A) has a gross vehicle weight rating of at least 10,001 pounds;

(B) is designed or used to transport passengers for compensation, but excluding vehicles providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places;

(C) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

(D) is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 of this title and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103.

(2) ''employee'' means an operator of a commercial motor vehicle (including an independent contractor when operating a commercial motor vehicle), a mechanic, a freight handler, or an individual not an employer, who—

(A) directly affects commercial motor vehicle safety in the course of employment; and

(B) is not an employee of the United States Government, a State, or a political subdivision of a State acting in the course of the employment by the Government, a State, or a political subdivision of a State.

(3) ''employer''—

(A) means a person engaged in a business affecting interstate commerce that owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate it; but

(B) does not include the Government, a State, or a political subdivision of a State.

(4) ''interstate commerce'' means trade, traffic, or transportation in the United States between a place in a State and—

(A) a place outside that State (including a place outside the United States); or

(B) another place in the same State through another State or through a place outside the United States.

(5) ''intrastate commerce'' means trade, traffic, or transportation in a State that is not interstate commerce.

(6) ''regulation'' includes a standard or order.

(7) ''State'' means a State of the United States, the District of Columbia, and, in sections 31136 and 31140–31142 of this title, a political subdivision of a State.

(8) ''State law'' includes a law enacted by a political subdivision of a State.

(9) ''State regulation'' includes a regulation prescribed by a political subdivision of a State.

(10) ''United States'' means the States of the United States and the District of Columbia.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1000; Pub. L. 104–88, title I, §104(f), Dec. 29, 1995, 109 Stat. 919.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31132	49 App.:2503.	Oct. 30, 1984, Pub. L. 98–554, § 204, 98 Stat. 2833.

The text of 49 App.:2503(6) is omitted as unnecessary because of 1:1. The text of 49 App.:2503(8) is omitted as surplus because the complete name of the Commercial Motor Vehicle Safety Regulatory Review Panel is used the first time the term appears in a section. The text of 49 App.:2503(9) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

AMENDMENTS

1995—Par. (1)(B) to (D). Pub. L. 104–88 added subpars. (B) and (C), redesignated former subpar. (C) as (D), and struck out former subpar. (B) which read as follows: ''is designed to transport more than 15 passengers including the driver; or''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 521, 5113, 14503, 31161 of this title.

§ 31133. General powers of the Secretary of Transportation

(a) GENERAL.—In carrying out this subchapter and regulations prescribed under section 31102 of this title, the Secretary of Transportation may—

(1) conduct inspections and investigations;

(2) compile statistics;

(3) make reports;

(4) issue subpenas;

(5) require production of records and property;

(6) take depositions;

(7) hold hearings;

(8) prescribe recordkeeping and reporting requirements;

(9) conduct or make contracts for studies, development, testing, evaluation, and training; and

(10) perform other acts the Secretary considers appropriate.

(b) CONSULTATION.—In conducting inspections and investigations under subsection (a) of this section, the Secretary shall consult, as appropriate, with employers and employees and their authorized representatives and offer them a right of accompaniment.

(c) DELEGATION.—The Secretary may delegate to a State receiving a grant under section 31102 of this title those duties and powers related to enforcement (including conducting investigations) of this subchapter and regulations prescribed under this subchapter that the Secretary considers appropriate.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1001.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31133(a)	49 App.:2510(a), (b) (1st sentence).	Oct. 30, 1984, Pub. L. 98–554, § 211, 98 Stat. 2841.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31133(b)	49 App.:2510(c).	
31133(c)	49 App.:2510(b) (last sentence).	

In subsection (a), the words before clause (1) are substituted for ''In carrying out the Secretary's functions under this chapter, the Secretary is authorized to'' and ''to carry out the provisions of this chapter, or regulations issued pursuant to section 2302 of this Appendix'' to eliminate unnecessary words. Clause (10) is substituted for ''perform such acts . . . as the Secretary determines necessary''. The text of 49 App.:2510(a) is omitted as covered by 49 App.:2510(b) (1st sentence).

In subsection (b), the words ''In conducting inspections and investigations'' are substituted for ''To carry out the Secretary's inspection and investigation functions'' to eliminate unnecessary words. The words ''or the Secretary's agent'' are omitted as unnecessary.

§ 31134. Commercial Motor Vehicle Safety Regulatory Review Panel

(a) ESTABLISHMENT AND GENERAL DUTY.—The Secretary of Transportation shall establish the Commercial Motor Vehicle Safety Regulatory Review Panel. The Panel shall analyze and review State laws and regulations under sections 31140 and 31141 of this title.

(b) SPECIFIC DUTIES.—The Panel shall—

(1) carry out those duties and powers designated to be carried out by the Panel under sections 31140 and 31141 of this title;

(2) conduct a study to—

(A) evaluate the need, if any, for additional assistance from the United States Government to the States to enable them to enforce the regulations prescribed by the Secretary under section 31136 of this title; and

(B) decide on other methods of furthering the purposes of this subchapter; and

(3) make recommendations to the Secretary based on the results of the study conducted under clause (2) of this subsection.

(c) COMPOSITION, APPOINTMENT, AND TERMS.—(1) The Panel shall be composed of 15 members as follows:

(A) the Secretary or the Secretary's delegate.

(B) 7 individuals appointed by the Secretary from among individuals who represent the interests of States and political subdivisions of States and whose names have been submitted to the Secretary by the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Transportation and Infrastructure of the House of Representatives.

(C) 7 individuals appointed by the Secretary from among individuals who represent the interests of business, consumer, labor, and safety groups and whose names have been submitted to the Secretary by the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Transportation and Infrastructure of the House of Representatives.

(2) The Secretary shall select the individuals to be appointed under this subsection on the

basis of their knowledge, expertise, or experience related to commercial motor vehicle safety. Half of the appointments shall be made from names submitted by the Committee on Commerce, Science, and Transportation of the Senate, and the other half from names submitted by the Committee on Transportation and Infrastructure of the House of Representatives. Each of these committees shall submit to the Secretary the names of 20 individuals qualified to serve on the Panel.

(3) The term of each member of the Panel appointed under paragraph (1)(B) and (C) of this subsection is 7 years.

(4) A vacancy on the Panel shall be filled in the way the original appointment was made. The vacancy does not affect the Panel's powers.

(d) CHAIRMAN, QUORUM, MEETINGS, AND PAY.—(1) The Secretary is the Chairman of the Panel.

(2) Eight members of the Panel are a quorum, but the Panel may establish a lesser number as a quorum to hold hearings, take testimony, and receive evidence.

(3) The Panel shall meet at the call of the Chairman or a majority of its members.

(4) Members of the Panel shall serve without pay, except that they shall receive expenses under section 5703 of title 5.

(e) PERSONNEL, OFFICE SPACE, AND SUPPORT SERVICES.—On request of the Panel, the Secretary shall—

(1) detail personnel of the Department of Transportation to the Panel as necessary to assist the Panel in carrying out its duties and powers; and

(2) provide office space, supplies, equipment, and other support services to the Panel as necessary for the Panel to carry out its duties and powers.

(f) HEARINGS AND OTHER ACTIONS.—To carry out the duties and powers of the Panel under this subchapter, the Panel or any member authorized by the Panel may hold hearings, sit and act at times and places, take testimony, and take other actions the Panel or the member considers advisable. A member of the Panel may administer oaths to witnesses appearing before the Panel or the member.

(g) TEMPORARY AND INTERMITTENT SERVICES.—Subject to regulations the Panel may prescribe, the Chairman may procure the temporary or intermittent services of experts or consultants under section 3109 of title 5.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1001; Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31134(a)	49 App.:2508(a).	Oct. 30, 1984, Pub. L. 98–554, § 209, 98 Stat. 2838.
31134(b)	49 App.:2508(b).	
31134(c)	49 App.:2508(c), (d)(1), (5).	
31134(d)	49 App.:2508(d) (2)–(4), (6).	
31134(e)	49 App.:2508(e), (f).	
31134(f)	49 App.:2508(g).	
31134(g)	49 App.:2508(h).	

In subsection (a), the words ''As soon as practicable after October 30, 1984'' are omitted as obsolete.

In subsection (d)(4), the words ''per diem and travel'' are omitted as surplus.

In subsection (f), the words ''or affirmations'' are omitted as unnecessary because of 1:1.

AMENDMENTS

1996—Subsec. (c)(1), (2). Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation'' wherever appearing.

§ 31135. Duties of employers and employees

Each employer and employee shall comply with regulations on commercial motor vehicle safety prescribed by the Secretary of Transportation under this subchapter that apply to the employer's or employee's conduct.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1003.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31135	49 App.:2504.	Oct. 30, 1984, Pub. L. 98–554, § 205, 98 Stat. 2834.

§ 31136. United States Government regulations

(a) MINIMUM SAFETY STANDARDS.—Subject to section 30103(a) of this title, the Secretary of Transportation shall prescribe regulations on commercial motor vehicle safety. The regulations shall prescribe minimum safety standards for commercial motor vehicles. At a minimum, the regulations shall ensure that—

(1) commercial motor vehicles are maintained, equipped, loaded, and operated safely;

(2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely;

(3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely; and

(4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators.

(b) ELIMINATING AND AMENDING EXISTING REGULATIONS.—The Secretary may not eliminate or amend an existing motor carrier safety regulation related only to the maintenance, equipment, loading, or operation (including routing) of vehicles carrying material found to be hazardous under section 5103 of this title until an equivalent or more stringent regulation has been prescribed under section 5103.

(c) PROCEDURES AND CONSIDERATIONS.—(1) A regulation under this section shall be prescribed under section 553 of title 5 (without regard to sections 556 and 557 of title 5).

(2) Before prescribing regulations under this section, the Secretary shall consider, to the extent practicable and consistent with the purposes of this chapter—

(A) costs and benefits; and

(B) State laws and regulations on commercial motor vehicle safety, to minimize their unnecessary preemption.

(d) EFFECT OF EXISTING REGULATIONS.—If the Secretary does not prescribe regulations on commercial motor vehicle safety under this section, regulations on commercial motor vehicle safety prescribed by the Secretary before October 30, 1984, and in effect on October 30, 1984,

shall be deemed in this subchapter to be regulations prescribed by the Secretary under this section.

(e) WAIVERS.—

(1) IN GENERAL.—After notice and an opportunity for comment, the Secretary may waive any part of a regulation prescribed under this section as it applies to a person or class of persons, if the Secretary decides that the waiver is consistent with the public interest and the safe operation of commercial motor vehicles. Under this subsection, the Secretary shall waive the regulations prescribed under this section as they apply to schoolbuses (as defined in section 30125(a) of this title) unless the Secretary decides that making the regulations applicable to schoolbuses is necessary for public safety, considering all laws of the United States and States applicable to schoolbuses. A waiver under this subsection shall be published in the Federal Register, with the reasons for the waiver.

(2) COMMERCIAL MOTOR VEHICLE SAFETY PILOT PROGRAM.—

(A) IN GENERAL.—Not later than the 270th day following November 28, 1995, the Secretary shall implement a commercial motor vehicle regulatory relief and safety pilot program (hereinafter in this paragraph referred to as the ''program'') to grant and to monitor exemptions from the provisions of this section and sections 504 and 31502. The program shall provide that the Secretary, within 120 days after receiving an application for participation in the program from an employer, shall determine whether to exempt some or all of the eligible vehicles operated by the applicant, and some or all of the drivers of such vehicles employed by the applicant, from some or all of the regulations prescribed under this section and sections 504 and 31502—

(i) if the applicant has a satisfactory safety rating issued by the Secretary or meets criteria established by the Secretary pursuant to subparagraph (J) instead of such rating; and

(ii) if the applicant and the Secretary enter into an agreement that provides that the applicant while participating in the program—

(I) shall operate safely;

(II) shall provide the Secretary with accident and nonconfidential insurance-related information relevant to the safety performance of the applicant and vehicles and drivers of the applicant subject to the program;

(III) shall use in the program only drivers with good safety records in the preceding 36 months and who maintain such good safety records while in the program; and

(IV) shall implement such safety management controls as the Secretary (in cooperation with the applicant) determines are necessary to carry out the objectives of this subsection.

(B) SAFETY MANAGEMENT CONTROLS.—Safety management controls implemented by participants in the program shall be designed to achieve a level of operational safety equal to or greater than that resulting from compliance with the regulations prescribed under this section and sections 504 and 31502.

(C) PAPERWORK BURDEN TO BE MINIMIZED.—The Secretary shall ensure that participants in the program are subject to a minimum of paperwork and regulatory burdens necessary to ensure compliance with the requirements of the program.

(D) ENCOURAGEMENT OF ADVANCED TECHNOLOGY.—The Secretary shall encourage participants in the program to use such advanced technologies as may be necessary to ensure compliance with the requirements of the program.

(E) APPROVAL FACTORS.—In approving applicants for participation in the program, the Secretary shall—

(i) ensure that the participants represent a broad cross-section of fleet size and drivers of eligible vehicles; and

(ii) ensure participation by qualified applicants, except to the extent limited by resources of the Secretary that are necessary to permit effective monitoring under subparagraph (G).

(F) MODIFICATIONS TO REFLECT CHANGES IN REGULATIONS.—If there is a material change in the regulations prescribed under this section or section 504 or 31502, the Secretary shall require each participant in the program to modify the safety management controls applicable to such participant, and the agreement provided for in subparagraph (A)(ii), to the extent necessary to reflect the material change.

(G) MONITORING.—The Secretary and participants in the program shall monitor periodically the safety of vehicles and drivers subject to the program.

(H) TERMINATION OF PARTICIPATION.—A participant shall participate in the program until—

(i) the Secretary finds that—

(I) the participant has exceeded the average ratio of preventable accidents to vehicle miles traveled for a period of 12 months for eligible vehicles;

(II) the participant has failed to comply with the requirements established by the Secretary for participation in the program (including applicable safety management controls); or

(III) continued participation in the program is not in the public interest; or

(ii) the participant voluntarily withdraws from the program.

(I) EMERGENCIES.—The Secretary may suspend or modify participation in the program in case of emergency.

(J) GUIDELINES.—

(i) IN GENERAL.—Not later than the 270th day following November 28, 1995, the Secretary, after notice and opportunity for comment, shall establish criteria and define any terms necessary for implementing the program consistent with this section. In establishing the criteria, the Secretary

may consider to what extent and under what conditions safety management controls may substitute, in whole or in part, for compliance with some or all of the regulations prescribed under this section and sections 504 and 31502.

(ii) LIMITATION.—Notwithstanding clause (i), the program shall take effect on or before the 270th day following November 28, 1995. If the rulemaking described in clause (i) is not completed on or before such 270th day, the Secretary shall issue interim criteria, consistent with this section, pending the completion of the rulemaking described in this subsection.

(K) ELIGIBLE VEHICLES.—For purposes of this subsection, the term ''eligible vehicle'' means a commercial motor vehicle with a gross vehicle weight rating of at least 10,001 pounds, but not more than 26,000 pounds, other than a vehicle—

(i) designed to transport more than 15 passengers, including the driver; or

(ii) used in transporting material found by the Secretary to be hazardous under section 5103 and transported in a quantity requiring placarding under the regulations issued under such section.

(3) REVIEW OF REGULATIONS.—Based in part on the information and experience obtained from the program, the Secretary shall conduct a zero-based review of the need for, and the costs and benefits of, all regulations prescribed under this section and sections 504 and 31502 to determine whether and to what extent such regulations should apply to eligible vehicles. The review shall focus on the appropriate level of safety that is in the public interest and the paperwork and regulatory burdens of such regulations as the regulations apply to employers and employees that use such vehicles. The Secretary shall complete the review by the last day of the 3-year period beginning on November 28, 1995. Upon completion of the review, the Secretary shall, after notice and an opportunity for public comment, grant such exemptions or modify or repeal existing regulations to the extent appropriate.

(f) LIMITATIONS ON MUNICIPALITY AND COMMERCIAL ZONE EXEMPTIONS AND WAIVERS.—(1) The Secretary may not—

(A) exempt a person or commercial motor vehicle from a regulation related to commercial motor vehicle safety only because the operations of the person or vehicle are entirely in a municipality or commercial zone of a municipality; or

(B) waive application to a person or commercial motor vehicle of a regulation related to commercial motor vehicle safety only because the operations of the person or vehicle are entirely in a municipality or commercial zone of a municipality.

(2) If a person was authorized to operate a commercial motor vehicle in a municipality or commercial zone of a municipality in the United States for the entire period from November 19, 1987, through November 18, 1988, and if the person is otherwise qualified to operate a commercial motor vehicle, the person may operate a commercial motor vehicle entirely in a municipality or commercial zone of a municipality notwithstanding—

(A) paragraph (1) of this subsection;

(B) a minimum age requirement of the United States Government for operation of the vehicle; and

(C) a medical or physical condition that—

(i) would prevent an operator from operating a commercial motor vehicle under the commercial motor vehicle safety regulations in title 49, Code of Federal Regulations;

(ii) existed on July 1, 1988;

(iii) has not substantially worsened; and

(iv) does not involve alcohol or drug abuse.

(3) This subsection does not affect a State commercial motor vehicle safety law applicable to intrastate commerce.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1003; Pub. L. 104–59, title III, § 344, Nov. 28, 1995, 109 Stat. 610; Pub. L. 104–287, § 5(60), Oct. 11, 1996, 110 Stat. 3394.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31136(a)	49 App.:2505(a), (g).	Oct. 30, 1984, Pub. L. 98–554, § 206(a)–(g), 98 Stat. 2834.
31136(b)	49 App.:2505(b).	
31136(c)	49 App.:2505(c).	
31136(d)	49 App.:2505(d), (e).	
31136(e)	49 App.:2505(f).	
31136(f)	49 App.:2505(h).	Oct. 30, 1984, Pub. L. 98–554, § 206(h), 98 Stat. 2835; restated Nov. 18, 1988, Pub. L. 100–690, § 9102(a), 102 Stat. 4528.

In subsection (a), the text of 49 App.:2505(g) is omitted because 5:ch. 7 applies unless otherwise stated. Before clause (1), the words ''Not later than 18 months after October 30, 1984'' are omitted because the time period specified has expired. The words ''Subject to section 30103(a) of this title'' are added to alert the reader to that section.

In subsection (c)(1), the words ''except that the time periods specified in this subsection shall apply to the issuance of such regulations'' are omitted because the time periods referred to do not appear in subsection (c) as enacted. The reference was probably to the time periods in a prior version of subsection (c). See S. 2174, 98th Cong., 2d Sess., § 6(b) (as reported by the Committee on Commerce, Science, and Transportation of the Senate on May 2, 1984, in S. Rept. 98–424).

In subsection (d), the text of 49 App.:2505(d) is omitted as obsolete.

In subsection (f)(2)(C)(i), the words ''an operator'' are substituted for ''such person'' because only a natural person can have a medical or physical condition.

AMENDMENTS

1996—Subsec. (e)(2)(A), (J), (3). Pub. L. 104–287 substituted ''November 28, 1995'' for ''the date of the enactment of this paragraph''.

1995—Subsec. (e)(1) to (3). Pub. L. 104–59 designated existing text as par. (1) and inserted heading, and added pars. (2) and (3).

FEDERAL HIGHWAY ADMINISTRATION RULEMAKING

Pub. L. 104–88, title IV, § 408, Dec. 29, 1995, 109 Stat. 958, provided that:

''(a) ADVANCE NOTICE.—The Federal Highway Administration shall issue an advance notice of proposed rulemaking dealing with a variety of fatigue-related issues pertaining to commercial motor vehicle motor vehicle safety (including 8 hours of continuous sleep after 10

hours of driving, loading and unloading operations, automated and tamper-proof recording devices, rest and recovery cycles, fatigue and stress in longer combination vehicles, fitness for duty, and other appropriate regulatory and enforcement countermeasures for reducing fatigue-related incidents and increasing driver alertness) not later than March 1, 1996.

''(b) RULEMAKING.—The Federal Highway Administration shall issue a notice of proposed rulemaking dealing with such issues within 1 year after issuance of the advance notice under subsection (a) is published and shall issue a final rule dealing with those issues within 2 years after the last day of such 1-year period.''

EXEMPTIONS FROM REQUIREMENTS RELATING TO COMMERCIAL MOTOR VEHICLES AND THEIR OPERATORS

Section 345 of Pub. L. 104–59 provided that:

''(a) EXEMPTIONS.—

''(1) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.—Regulations prescribed by the Secretary under sections 31136 and 31502 of title 49, United States Code, regarding maximum driving and on-duty time for drivers used by motor carriers shall not apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes in a State if such transportation is limited to an area within a 100 air mile radius from the source of the commodities or the distribution point for the farm supplies and is during the planting and harvesting seasons within such State, as determined by the State.

''(2) TRANSPORTATION AND OPERATION OF GROUND WATER WELL DRILLING RIGS.—Such regulations shall, in the case of a driver of a commercial motor vehicle who is used primarily in the transportation and operation of a ground water well drilling rig, permit any period of 7 or 8 consecutive days to end with the beginning of an off-duty period of 24 or more consecutive hours for the purposes of determining maximum driving and on-duty time.

''(3) TRANSPORTATION OF CONSTRUCTION MATERIALS AND EQUIPMENT.—Such regulations shall, in the case of a driver of a commercial motor vehicle who is used primarily in the transportation of construction materials and equipment, permit any period of 7 or 8 consecutive days to end with the beginning of an off-duty period of 24 or more consecutive hours for the purposes of determining maximum driving and on-duty time.

''(4) DRIVERS OF UTILITY SERVICE VEHICLES.—Such regulations shall, in the case of a driver of a utility service vehicle, permit any period of 7 or 8 consecutive days to end with the beginning of an off-duty period of 24 or more consecutive hours for the purposes of determining maximum driving and on-duty time.

''(5) SNOW AND ICE REMOVAL.—A State may waive the requirements of chapter 313 of title 49, United States Code, with respect to a vehicle that is being operated within the boundaries of an eligible unit of local government by an employee of such unit for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting. Such waiver authority shall only apply in a case where the employee is needed to operate the vehicle because the employee of the eligible unit of local government who ordinarily operates the vehicle and who has a commercial drivers license is unable to operate the vehicle or is in need of additional assistance due to a snow emergency.

''(b) PREEMPTION.—Nothing contained in this section shall require the preemption of State laws and regulations concerning the safe operation of commercial motor vehicles as the result of exemptions from Federal requirements provided under this section.

''(c) REVIEW BY THE SECRETARY.—The Secretary may conduct a rulemaking proceeding to determine whether granting any exemption provided by subsection (a) (other than paragraph (2)) is not in the public interest and would have a significant adverse impact on the safety of commercial motor vehicles. If, at any time as a result of such a proceeding, the Secretary determines that granting such exemption would not be in the public interest and would have a significant adverse impact on the safety of commercial motor vehicles, the Secretary may prevent the exemption from going into effect, modify the exemption, or revoke the exemption. The Secretary may develop a program to monitor the exemption, including agreements with carriers to permit the Secretary to examine insurance information maintained by an insurer on a carrier.

''(d) REPORT.—The Secretary shall monitor the commercial motor vehicle safety performance of drivers of vehicles that are subject to an exemption under this section. If the Secretary determines that public safety has been adversely affected by an exemption granted under this section, the Secretary shall report to Congress on the determination.

''(e) DEFINITIONS.—In this section, the following definitions apply:

''(1) 7 OR 8 CONSECUTIVE DAYS.—The term '7 or 8 consecutive days' means the period of 7 or 8 consecutive days beginning on any day at the time designated by the motor carrier for a 24-hour period.

''(2) 24-HOUR PERIOD.—The term '24-hour period' means any 24 consecutive hour period beginning at the time designated by the motor carrier for the terminal from which the driver is normally dispatched.

''(3) GROUND WATER WELL DRILLING RIG.—The term 'ground water well drilling rig' means any vehicle, machine, tractor, trailer, semi-trailer, or specialized mobile equipment propelled or drawn by mechanical power and used on highways to transport water well field operating equipment, including water well drilling and pump service rigs equipped to access ground water.

''(4) TRANSPORTATION OF CONSTRUCTION MATERIALS AND EQUIPMENT.—The term 'transportation of construction materials and equipment' means the transportation of construction and pavement materials, construction equipment, and construction maintenance vehicles, by a driver to or from an active construction site (a construction site between initial mobilization of equipment and materials to the site to the final completion of the construction project) within a 50 air mile radius of the normal work reporting location of the driver. This paragraph does not apply to the transportation of material found by the Secretary to be hazardous under section 5103 of title 49, United States Code, in a quantity requiring placarding under regulations issued to carry out such section.

''(5) ELIGIBLE UNIT OF LOCAL GOVERNMENT.—The term 'eligible unit of local government' means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law which has a total population of 3,000 individuals or less.

''(6) UTILITY SERVICE VEHICLE.—The term 'utility service vehicle' means any commercial motor vehicle—

''(A) used in the furtherance of repairing, maintaining, or operating any structures or any other physical facilities necessary for the delivery of public utility services, including the furnishing of electric, gas, water, sanitary sewer, telephone, and television cable or community antenna service;

''(B) while engaged in any activity necessarily related to the ultimate delivery of such public utility services to consumers, including travel or movement to, from, upon, or between activity sites (including occasional travel or movement outside the service area necessitated by any utility emergency as determined by the utility provider); and

''(C) except for any occasional emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the vehicle is owned, leased, or rented by the utility.

''(f) EFFECTIVE DATE.—Subsection (a) of this section shall take effect on the 180th day following the date of the enactment of this Act [Nov. 28, 1995]; except that paragraphs (1) and (2) of subsection (a) shall take effect on such date of enactment.''

WINTER HOME HEATING OIL DELIVERY STATE FLEXIBILITY PROGRAM

Section 346 of Pub. L. 104–59 provided that:

''(a) IN GENERAL.—After notice and opportunity for comment, the Secretary shall develop and implement a pilot program for the purpose of evaluating waivers of the regulations issued by the Secretary pursuant to sections 31136 and 31502 of title 49, United States Code, relating to maximum on-duty time, and sections 31102 and 31104(j) of such title, relating to the Motor Carrier Safety Assistance Program, to permit any period of 7 or 8 consecutive days to end with the beginning of an off-duty period of 24 or more consecutive hours for the purposes of determining maximum on-duty time for drivers of motor vehicles making intrastate home heating oil deliveries that occur within 100 air miles of a central terminal or distribution point of the delivery of such oil. The Secretary may approve up to 5 States to participate in the pilot program during the winter heating season in the 6-month period beginning on November 1, 1996.

''(b) APPROVAL CRITERIA.—The Secretary shall select States to participate in the pilot program upon approval of applications submitted by States to the Secretary. The Secretary shall act on a State's application within 30 days after the date of its submission. The Secretary may only approve an application of a State under this section if the Secretary finds, at a minimum, that—

''(1) a substantial number of the citizens of the State rely on home heating oil for heat during winter months;

''(2) current maximum on-duty time regulations may endanger the welfare of these citizens by impeding timely deliveries of home heating oil;

''(3) the State will ensure an equal to or greater level of safety with respect to home heating oil deliveries than the level of safety resulting from compliance with the regulations referred to in subsection (a);

''(4) the State will monitor the safety of home heating oil deliveries while participating in the program;

''(5) employers of deliverers of home heating oil that will be covered by the program will agree to make all safety data developed from the pilot program available to the State and to the Secretary;

''(6) the State will only permit employers of deliverers of home heating oil with satisfactory safety records to be covered by the program; and

''(7) the State will comply with such other criteria as the Secretary determines are necessary to implement the program consistent with this section.

''(c) PARTICIPATION IN PROGRAM.—Upon approval of an application of a State under this section, the Secretary shall permit the State to participate in the pilot program for an initial period of 15 days during the winter heating season of the State (as determined by the Governor and the Secretary). If, after the last day of such 15-day period, the Secretary finds that a State's continued participation in the program is consistent with this section and has resulted in no significant adverse impact on public safety and is in the public interest, the Secretary shall extend the State's participation in the program for periods of up to 30 additional days during such heating season.

''(d) SUSPENSION FROM PROGRAM.—The Secretary may suspend a State's participation in the pilot program at any time if the Secretary finds—

''(1) that the State has not complied with any of the criteria for participation in the program under this section;

''(2) that a State's participation in the program has caused a significant adverse impact on public safety and is not in the public interest; or

''(3) the existence of an emergency.

''(e) REVIEW BY SECRETARY.—Within 90 days after the completion of the pilot program, the Secretary shall initiate a rulemaking to determine, based in part on the results of the program, whether to—

''(1) permit a State to grant waivers of the regulations referred to in subsection (a) to motor carriers transporting home heating oil within the borders of the State, subject to such conditions as the Secretary may impose, if the Secretary determines that such waivers by the State meet the conditions in section 31136(e) of title 49, United States Code; or

''(2) amend the regulations referred to in subsection (a) as may be necessary to provide flexibility to motor carriers delivering home heating oil during winter periods of peak demand.

''(f) DEFINITION.—In this section, the term '7 or 8 consecutive days' has the meaning such term has under section 345 of this Act [set out above].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31132, 31134, 31140, 31141, 31142, 31146 of this title.

§ 31137. Monitoring device and brake maintenance regulations

(a) USE OF MONITORING DEVICES.—If the Secretary of Transportation prescribes a regulation about the use of monitoring devices on commercial motor vehicles to increase compliance by operators of the vehicles with hours of service regulations of the Secretary, the regulation shall ensure that the devices are not used to harass vehicle operators. However, the devices may be used to monitor productivity of the operators.

(b) BRAKES AND BRAKE SYSTEMS MAINTENANCE REGULATIONS.—Not later than December 31, 1990, the Secretary shall prescribe regulations on improved standards or methods to ensure that brakes and brake systems of commercial motor vehicles are maintained properly and inspected by appropriate employees. At a minimum, the regulations shall establish minimum training requirements and qualifications for employees responsible for maintaining and inspecting the brakes and brake systems.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1004.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31137(a)	49 App.:2505 (note).	Nov. 18, 1988, Pub. L. 100–690, § 9104(b), 102 Stat. 4529.
31137(b)	49 App.:2521.	Oct. 30, 1984, Pub. L. 98–554, 98 Stat. 2829, § 231; added Nov. 18, 1988, Pub. L. 100–690, § 9110, 102 Stat. 4531.

In subsection (b), the text of 49 App.:2521(a) is omitted as executed.

§ 31138. Minimum financial responsibility for transporting passengers

(a) GENERAL REQUIREMENT.—The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers for compensation by motor vehicle in the United States between a place in a State and—

(1) a place in another State;

(2) another place in the same State through a place outside of that State; or

(3) a place outside the United States.

(b) MINIMUM AMOUNTS.—The level of financial responsibility established under subsection (a) of this section for a motor vehicle with a seating capacity of—

(1) at least 16 passengers shall be at least $5,000,000; and

(2) not more than 15 passengers shall be at least $1,500,000.

(c) EVIDENCE OF FINANCIAL RESPONSIBILITY.—(1) Subject to paragraph (2) of this subsection, financial responsibility may be established by evidence of one or a combination of the following if acceptable to the Secretary of Transportation:

(A) insurance, including high self-retention.

(B) a guarantee.

(C) a surety bond issued by a bonding company authorized to do business in the United States.

(2) A person domiciled in a country contiguous to the United States and providing transportation to which a minimum level of financial responsibility under this section applies shall have evidence of financial responsibility in the motor vehicle when the person is providing the transportation. If evidence of financial responsibility is not in the vehicle, the Secretary of Transportation and the Secretary of the Treasury shall deny entry of the vehicle into the United States.

(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.

(d) CIVIL PENALTY.—(1) If, after notice and an opportunity for a hearing, the Secretary of Transportation finds that a person (except an employee acting without knowledge) has knowingly violated this section or a regulation prescribed under this section, the person is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation shall impose the penalty by written notice. In determining the amount of the penalty, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(C) other matters that justice requires.

(3) The Secretary of Transportation may compromise the penalty before referring the matter to the Attorney General for collection.

(4) The Attorney General shall bring a civil action in an appropriate district court of the United States to collect a penalty referred to the Attorney General for collection under this subsection.

(5) The amount of the penalty may be deducted from amounts the Government owes the person. An amount collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(e) NONAPPLICATION.—This section does not apply to a motor vehicle—

(1) transporting only school children and teachers to or from school;

(2) providing taxicab service, having a seating capacity of not more than 6 passengers, and not being operated on a regular route or between specified places;

(3) carrying not more than 15 individuals in a single, daily round trip to and from work; or

(4) providing transportation service within a transit service area under an agreement with a Federal, State, or local government funded, in whole or in part, with a grant under section 5307, 5310, or 5311, including transportation designed and carried out to meet the special needs of elderly individuals and individuals with disabilities; except that, in any case in which the transit service area is located in more than 1 State, the minimum level of financial responsibility for such motor vehicle will be at least the highest level required for any of such States.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1005; Pub. L. 104–88, title I, § 104(c), (d), Dec. 29, 1995, 109 Stat. 919.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31138(a)	49:10927 (note).	Sept. 20, 1982, Pub. L. 97–261, § 18(a), 96 Stat. 1121.
31138(b)	49:10927 (note).	Sept. 20, 1982, Pub. L. 97–261, § 18(b), (c), 96 Stat. 1121.
31138(c)	49:10927 (note).	Sept. 20, 1982, Pub. L. 97–261, § 18(d), 96 Stat. 1121; Oct. 30, 1984, Pub. L. 98–554, § 224, 98 Stat. 2847.
31138(d)	49:10927 (note).	Sept. 20, 1982, Pub. L. 97–261, § 18(e), 96 Stat. 1122.
31138(e)	49:10927 (note).	Sept. 20, 1982, Pub. L. 97–261, § 18(f), (g), 96 Stat. 1122.

In subsection (b), before clause (1), the text of section 18(b)(1) (words beginning with ''except'') and (2) (words beginning with ''except'') and (c) of the Bus Regulatory Reform Act of 1982 (Public Law 97–261, 96 Stat. 1121) is omitted as expired. The word ''minimal'' is omitted as surplus.

In subsection (c)(1), the words ''The Secretary shall establish, by regulation, methods and procedures to assure compliance with this section'' are omitted as surplus.

In subsection (d)(4), the words ''The Attorney General shall bring a civil action . . . to collect a penalty referred to the Attorney General for collection under this subsection'' are substituted for ''Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States'' for consistency in the revised title.

In subsection (d)(5), the words ''when finally determined (or agreed upon in compromise)'' are omitted as surplus.

In subsection (e), before clause (1), the text of section 18(g) of the Bus Regulatory Reform Act of 1982 (Public Law 97–261, 96 Stat. 1122) is omitted as unnecessary because of the restatement.

AMENDMENTS

1995—Subsec. (c)(3). Pub. L. 104–88, § 104(c), added par. (3).

Subsec. (e)(4). Pub. L. 104–88, § 104(d), added par. (4).

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 507, 521, 526, 10927, 13101, 13902, 13906 of this title.

§ 31139. Minimum financial responsibility for transporting property

(a) DEFINITIONS.—In this section—

(1) ''farm vehicle'' means a vehicle—

(A) designed or adapted and used only for agriculture;

(B) operated by a motor private carrier (as defined in section 10102 of this title); and

(C) operated only incidentally on highways.

(2) ''interstate commerce'' includes transportation between a place in a State and a place outside the United States, to the extent the transportation is in the United States.

(3) ''State'' means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(b) GENERAL REQUIREMENT AND MINIMUM AMOUNT.—(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property for compensation by motor vehicle in the United States between a place in a State and—

(A) a place in another State;

(B) another place in the same State through a place outside of that State; or

(C) a place outside the United States.

(2) The level of financial responsibility established under paragraph (1) of this subsection shall be at least $750,000.

(c) REQUIREMENTS FOR HAZARDOUS MATTER AND OIL.—(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation by motor vehicle in interstate or intrastate commerce of—

(A) hazardous material (as defined by the Secretary);

(B) oil or hazardous substances (as defined by the Administrator of the Environmental Protection Agency); or

(C) hazardous wastes (as defined by the Administrator).

(2)(A) Except as provided in subparagraph (B) of this paragraph, the level of financial responsibility established under paragraph (1) of this subsection shall be at least $5,000,000 for the transportation—

(i) of hazardous substances (as defined by the Administrator) in cargo tanks, portable tanks, or hopper-type vehicles, with capacities of more than 3,500 water gallons;

(ii) in bulk of class A explosives, poison gas, liquefied gas, or compressed gas; or

(iii) of large quantities of radioactive material.

(B) The Secretary of Transportation by regulation may reduce the minimum level in subparagraph (A) of this paragraph (to an amount not less than $1,000,000) for transportation described in subparagraph (A) in any of the territories of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands if—

(i) the chief executive officer of the territory requests the reduction;

(ii) the reduction will prevent a serious disruption in transportation service and will not adversely affect public safety; and

(iii) insurance of $5,000,000 is not readily available.

(3) The level of financial responsibility established under paragraph (1) of this subsection for the transportation of a material, oil, substance, or waste not subject to paragraph (2) of this subsection shall be at least $1,000,000. However, if the Secretary of Transportation finds it will not adversely affect public safety, the Secretary by regulation may reduce the amount for—

(A) a class of vehicles transporting such a material, oil, substance, or waste in intrastate commerce (except in bulk); and

(B) a farm vehicle transporting such a material or substance in interstate commerce (except in bulk).

(d) FOREIGN MOTOR CARRIERS AND PRIVATE CARRIERS.—Regulations prescribed under this section may allow foreign motor carriers and foreign motor private carriers (as those terms are defined in section 10530 of this title) providing transportation of property under a certificate of registration issued under section 10530 to meet the minimum levels of financial responsibility under this section only when those carriers are providing transportation for property in the United States.

(e) EVIDENCE OF FINANCIAL RESPONSIBILITY.—(1) Subject to paragraph (2) of this subsection, financial responsibility may be established by evidence of one or a combination of the following if acceptable to the Secretary of Transportation:

(A) insurance.

(B) a guarantee.

(C) a surety bond issued by a bonding company authorized to do business in the United States.

(D) qualification as a self-insurer.

(2) A person domiciled in a country contiguous to the United States and providing transportation to which a minimum level of financial responsibility under this section applies shall have evidence of financial responsibility in the motor vehicle when the person is providing the transportation. If evidence of financial responsibility is not in the vehicle, the Secretary of Transportation and the Secretary of the Treasury shall deny entry of the vehicle into the United States.

(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.

(f) CIVIL PENALTY.—(1) If, after notice and an opportunity for a hearing, the Secretary of Transportation finds that a person (except an employee acting without knowledge) has knowingly violated this section or a regulation prescribed under this section, the person is liable to the United States Government for a civil pen-

alty of not more than $10,000 for each violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation shall impose the penalty by written notice. In determining the amount of the penalty, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(C) other matters that justice requires.

(3) The Secretary of Transportation may compromise the penalty before referring the matter to the Attorney General for collection.

(4) The Attorney General shall bring a civil action in an appropriate district court of the United States to collect a penalty referred to the Attorney General for collection under this subsection.

(5) The amount of the penalty may be deducted from amounts the Government owes the person. An amount collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(g) NONAPPLICATION.—This section does not apply to a motor vehicle having a gross vehicle weight rating of less than 10,000 pounds if the vehicle is not used to transport in interstate or foreign commerce—

(1) class A or B explosives;

(2) poison gas; or

(3) a large quantity of radioactive material.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1006; Pub. L. 104–88, title I, § 104(e), Dec. 29, 1995, 109 Stat. 919.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31139(a)	49:10927 (note).	July 1, 1980, Pub. L. 96–296, § 30(h), 94 Stat. 823; Jan. 6, 1983, Pub. L. 97–424, § 406(c), 96 Stat. 2159; Oct. 30, 1984, Pub. L. 98–554, § 222(b), 98 Stat. 2847; Nov. 18, 1988, Pub. L. 100–690, § 9112, 102 Stat. 4534.
31139(b)	49:10927 (note).	July 1, 1980, Pub. L. 96–296, § 30(a), 94 Stat. 820; Jan. 6, 1983, Pub. L. 97–424, § 406(a), 96 Stat. 2158.
31139(c)	49:10927 (note).	July 1, 1980, Pub. L. 96–296, § 30(b), 94 Stat. 821; Jan. 6, 1983, Pub. L. 97–424, § 406(a), 96 Stat. 2158; Oct. 30, 1984, Pub. L. 98–554, § 222(a), 98 Stat. 2846; Nov. 16, 1990, Pub. L. 101–615, § 23, 104 Stat. 3272.
31139(d)	49:10927 (note).	July 1, 1980, Pub. L. 96–296, 94 Stat. 793, § 30(g); added Nov. 18, 1988, Pub. L. 100–690, § 9112, 102 Stat. 4534.
31139(e)	49:10927 (note).	July 1, 1980, Pub. L. 96–296, § 30(c), 94 Stat. 822; Jan. 6, 1983, Pub. L. 97–424, § 406(b), 96 Stat. 2158. July 1, 1980, Pub. L. 96–296, § 30(e), 94 Stat. 822.
31139(f)	49:10927 (note).	July 1, 1980, Pub. L. 96–296, § 30(d), 94 Stat. 822.
31139(g)	49:10927 (note).	July 1, 1980, Pub. L. 96–296, § 30(f), 94 Stat. 823; Jan. 6, 1983, Pub. L. 97–424, § 406(d), 96 Stat. 2159.

In subsection (a), before clause (1), the text of section 30(h)(3) of the Motor Carrier Act of 1980 (Public Law 96–296, 94 Stat. 823) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section. In clause (3), the words ''(including its use in the terms 'interstate' and 'intrastate')'' are omitted as surplus.

In subsections (b)(2) and (c)(2) and (3), the word ''minimal'' is omitted as surplus.

In subsection (b)(2), the words ''for any vehicle'' are omitted as surplus. The words beginning with ''except'' are omitted as expired. The text of section 30(a)(3) of the Act (Public Law 96–296, 94 Stat. 821) is omitted because the regulations have been issued. See 49 C.F.R. part 387.

In subsection (c)(2), the text of section 30(b)(2)(B) of the Act (Public Law 96–296, 94 Stat. 821) is omitted as expired.

In subsection (c)(3), before clause (A), the text of section 30(b)(3)(A) of the Act (Public Law 96–296, 94 Stat. 821) is omitted as expired. The text of section 30(b)(4) of the Act (Public Law 96–296, 94 Stat. 822) is omitted because the regulations have been issued. See 49 C.F.R. part 387. The words ''for any vehicle . . . in interstate or intrastate commerce'' are omitted as unnecessary because of the reference to paragraph (1).

In subsection (e)(1), the words ''The Secretary shall establish, by regulation, methods and procedures to assure compliance with this section'' are omitted as surplus. The text of section 30(e) of the Act (Public Law 96–296, 94 Stat. 822) is omitted as executed.

In subsection (f)(4), the words ''The Attorney General shall bring a civil action . . . to collect a penalty referred to the Attorney General for collection under this subsection'' are substituted for ''Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States'' for consistency in the revised title.

In subsection (f)(5), the words ''when finally determined (or agreed upon in compromise)'' are omitted as surplus.

In subsection (g)(1) and (2), the words ''any quantity of'' are omitted as surplus.

AMENDMENTS

1995—Subsec. (e)(3). Pub. L. 104–88 added par. (3).

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 507, 521, 526, 10927, 13906 of this title; title 42 section 9608.

§ 31140. Submission of State laws and regulations for review

(a) GENERAL.—A State that enacts a State law or issues a regulation on commercial motor vehicle safety shall submit a copy of the law or regulation to the Secretary of Transportation and the Commercial Motor Vehicle Safety Regulatory Review Panel immediately after the enactment or issuance.

(b) ADDITIONAL INFORMATION.—As soon as practicable but not later than a date the Panel may establish, a State that submits a State law or regulation under this section to the Panel shall—

(1) indicate in writing to the Panel whether the law or regulation—

(A) has the same effect as a regulation prescribed by the Secretary under section 31136 of this title;

(B) is less stringent than that regulation; or

(C) is additional to or more stringent than that regulation; and

(2) submit to the Panel other information the Panel or the Secretary may require to carry out this subchapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1008.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31140(a)	49 App.:2506(a)–(c).	Oct. 30, 1984, Pub. L. 98–554, §207, 98 Stat. 2835.
31140(b)	49 App.:2506(d), (e).	

In subsection (a), the text of 49 App.:2506(a) and (c) is omitted as expired.

In subsection (b)(1), the reference to section 31136 was in the original ''section 6'' and was translated as if the reference was to section 206 to reflect the probable intent of Congress. The text of 49 App.:2506(e) is omitted as surplus because of section 31141 of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31102, 31132, 31134 of this title.

§31141. Review and preemption of State laws and regulations

(a) PREEMPTION AFTER DECISION.—A State may not enforce a State law or regulation on commercial motor vehicle safety that the Secretary of Transportation decides under this section may not be enforced.

(b) ANALYSIS AND DECISIONS BY THE PANEL.—(1) The Commercial Motor Vehicle Safety Regulatory Review Panel annually shall analyze State laws and regulations and decide which of those laws and regulations are related to commercial motor vehicle safety.

(2) Not later than one year after the date the Secretary prescribes a regulation under section 31136 of this title or one year after the date the Panel decides under paragraph (1) of this subsection that a State law or regulation is related to commercial motor vehicle safety, whichever is later, the Panel shall—

(A) decide whether the State law or regulation—

(i) has the same effect as the regulation prescribed by the Secretary;

(ii) is less stringent than that regulation; or

(iii) is additional to or more stringent than that regulation;

(B) decide, for each State law or regulation that the Panel decides is additional to or more stringent than the regulation prescribed by the Secretary, whether—

(i) the State law or regulation has no safety benefit;

(ii) the State law or regulation is incompatible with the regulation prescribed by the Secretary; or

(iii) enforcement of the State law or regulation would cause an unreasonable burden on interstate commerce; and

(C) notify the Secretary of the Panel's decisions under this subsection.

(c) REVIEW AND DECISIONS BY SECRETARY.—(1) The Secretary shall review each State law and regulation on commercial motor vehicle safety. Not later than 18 months after the date the Panel notifies the Secretary of a decision under subsection (b) of this section, the Secretary shall—

(A) conduct a regulatory proceeding to decide under this subsection whether the State law or regulation may be enforced; and

(B) prescribe a final regulation.

(2) If the Secretary decides a State law or regulation has the same effect as a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may be enforced.

(3) If the Secretary decides a State law or regulation is less stringent than a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may not be enforced.

(4) If the Secretary decides a State law or regulation is additional to or more stringent than a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may be enforced unless the Secretary also decides that—

(A) the State law or regulation has no safety benefit;

(B) the State law or regulation is incompatible with the regulation prescribed by the Secretary; or

(C) enforcement of the State law or regulation would cause an unreasonable burden on interstate commerce.

(5)(A) In deciding about a State law or regulation under this subsection, the Secretary shall give great weight to the corresponding decision made by the Panel about that law or regulation under subsection (b) of this section.

(B) In deciding under paragraph (4) of this subsection whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the effect on interstate commerce of implementation of that law or regulation with the implementation of all similar laws and regulations of other States.

(d) WAIVERS.—(1) A person (including a State) may petition the Secretary for a waiver of a decision of the Secretary that a State law or regulation may not be enforced under this section. The Secretary shall grant the waiver, as expeditiously as possible, if the person demonstrates to the satisfaction of the Secretary that the waiver is consistent with the public interest and the safe operation of commercial motor vehicles.

(2) Before deciding whether to grant or deny a petition for a waiver under this subsection, the Secretary shall give the petitioner an opportunity for a hearing on the record.

(e) CONSOLIDATING PROCEEDINGS.—The Secretary may consolidate regulatory proceedings under this section if the Secretary decides that the consolidation will not adversely affect a party to a proceeding.

(f) WRITTEN NOTICE OF DECISIONS.—Not later than 10 days after making a decision under subsection (c) of this section that a State law or regulation may not be enforced, the Secretary shall give written notice to the State of that decision.

(g) JUDICIAL REVIEW AND VENUE.—(1) Not later than 60 days after the Secretary makes a deci-

sion under subsection (c) of this section, or grants or denies a petition for a waiver under subsection (d) of this section, a person (including a State) adversely affected by the decision, grant, or denial may file a petition for judicial review. The petition may be filed in the court of appeals of the United States for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

(2) The court has jurisdiction to review the decision, grant, or denial and to grant appropriate relief, including interim relief, as provided in chapter 7 of title 5.

(3) A judgment of a court under this subsection may be reviewed only by the Supreme Court under section 1254 of title 28.

(4) The remedies provided for in this subsection are in addition to other remedies provided by law.

(h) INITIATING REVIEW PROCEEDINGS.—To review a State law or regulation on commercial motor vehicle safety under this section, the Secretary may initiate a regulatory proceeding on the Secretary's own initiative or on petition of an interested person (including a State).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1008.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31141(a)	49 App.:2507(a).	Oct. 30, 1984, Pub. L. 98–554, § 208(a)–(g), (i), 98 Stat. 2836, 2838.
31141(b)	49 App.:2507(b).	
31141(c)	49 App.:2507(c).	
31141(d)	49 App.:2507(d).	
31141(e)	49 App.:2507(e).	
31141(f)	49 App.:2507(f).	
31141(g)	49 App.:2507(g).	
31141(h)	49 App.:2507(h).	Oct. 30, 1984, Pub. L. 98–554, § 208(h), 98 Stat. 2838; Nov. 18, 1988, Pub. L. 100–690, § 9109, 102 Stat. 4530.
	49 App.:2507(i).	

In this section, language about whether a State law or regulation may be ''in effect'' is omitted as redundant to language about whether it may be ''enforced''. The words ''regulatory proceeding'' are substituted for ''rulemaking proceeding'' for consistency in the revised title and because ''rule'' is synonymous with ''regulation''.

In subsection (a), the words ''with respect to commercial motor vehicles'' are omitted as surplus.

In subsection (b)(1), the words ''Not later than 18 months after October 30, 1984, and . . . thereafter'' are omitted as obsolete.

In subsection (g)(1), the words ''court of appeals of the United States for the District of Columbia Circuit'' are substituted for ''United States court of appeals for the District of Columbia'' to be more precise.

In subsection (g)(2), the words ''Upon the filing of a petition under paragraph (1) of this subsection'' are omitted as surplus.

Subsection (g)(3) is substituted for 49 App.:2507(g)(3) for consistency in this part and to eliminate unnecessary words.

In subsection (h), the text of 49 App.:2507(h) and the words ''After the last day of the 48-month period beginning on October 30, 1984'' are omitted as obsolete.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31132, 31134 of this title.

§ 31142. Inspection of vehicles

(a) INSPECTION OF SAFETY EQUIPMENT.—On the instruction of an authorized enforcement official of a State or of the United States Government, a commercial motor vehicle is required to pass an inspection of all safety equipment required under part 393 of title 49, Code of Federal Regulations.

(b) INSPECTION OF VEHICLES AND RECORD RETENTION.—The Secretary of Transportation shall prescribe regulations on Government standards for inspection of commercial motor vehicles and retention by employers of records of an inspection. The standards shall provide for annual or more frequent inspections of a commercial motor vehicle unless the Secretary finds that another inspection system is as effective as an annual or more frequent inspection system. Regulations prescribed under this subsection are deemed to be regulations prescribed under section 31136 of this title.

(c) PREEMPTION.—(1) Except as provided in paragraph (2) of this subsection, this subchapter and section 31102 of this title do not—

(A) prevent a State or voluntary group of States from imposing more stringent standards for use in their own periodic roadside inspection programs of commercial motor vehicles;

(B) prevent a State from enforcing a program for inspection of commercial motor vehicles that the Secretary decides is as effective as the Government standards prescribed under subsection (b) of this section;

(C) prevent a State from enforcing a program for inspection of commercial motor vehicles that meets the requirements for membership in the Commercial Vehicle Safety Alliance, as those requirements were in effect on October 30, 1984; or

(D) require a State that is enforcing a program described in clause (B) or (C) of this paragraph to enforce a Government standard prescribed under subsection (b) of this section or to adopt a provision on inspection of commercial motor vehicles in addition to that program to comply with the Government standards.

(2) The Government standards prescribed under subsection (b) of this section shall preempt a program of a State described in paragraph (1)(C) of this subsection as the program applies to the inspection of commercial motor vehicles in that State. The State may not enforce the program if the Secretary—

(A) decides, after notice and an opportunity for a hearing, that the State is not enforcing the program in a way that achieves the objectives of this section; and

(B) after making a decision under clause (A) of this paragraph, provides the State with a 6-month period to improve the enforcement of the program to achieve the objectives of this section.

(d) INSPECTION TO BE ACCEPTED AS ADEQUATE IN ALL STATES.—A periodic inspection of a commercial motor vehicle under the Government standards prescribed under subsection (b) of this section or a program described in subsection (c)(1)(B) or (C) of this section that is being en-

forced shall be recognized as adequate in every State for the period of the inspection. This subsection does not prohibit a State from making random inspections of commercial motor vehicles.

(e) EFFECT OF GOVERNMENT STANDARDS.—The Government standards prescribed under subsection (b) of this section may not be enforced as the standards apply to the inspection of commercial motor vehicles in a State enforcing a program described in subsection (c)(1)(B) or (C) of this section if the Secretary decides that it is in the public interest and consistent with public safety for the Government standards not to be enforced as they apply to that inspection.

(f) APPLICATION OF STATE REGULATIONS TO GOVERNMENT-LEASED VEHICLES AND OPERATORS.—A State receiving financial assistance under section 31102 of this title in a fiscal year may enforce in that fiscal year a regulation on commercial motor vehicle safety adopted by the State as the regulation applies to commercial motor vehicles and operators leased to the Government.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1010.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31142(a)	49 App.:2509(a).	Oct. 30, 1984, Pub. L. 98–554, §210(a)–(f), 98 Stat. 2839.
31142(b)	49 App.:2509(b), (c).	
31142(c)	49 App.:2509(d).	
31142(d)	49 App.:2509(e).	
31142(e)	49 App.:2509(f).	
31142(f)	49 App.:2509(g).	Oct. 30, 1984, Pub. L. 98–554, 98 Stat. 2829, §210(g); added Nov. 16, 1990, Pub. L. 101–615, §24, 104 Stat. 3273.

In this section, language about whether a State law or regulation may be ''in effect'' is omitted as redundant to language about whether it may be ''enforced''.

In subsection (b), the words ''shall prescribe regulations on'' are substituted for ''shall, by rule, establish'' for consistency in the revised title and with other titles of the United States Code and because ''rule'' is synonymous with ''regulation''. The words ''For purposes of this chapter'' are omitted as unnecessary. The text of 49 App.:2509(c) is omitted as executed.

In subsection (c)(1), before clause (A), the words ''this subchapter and section 31102 of this title do not'' are substituted for ''nothing in section 2302 of this Appendix or section 2507 of this Appendix or any other provision of this chapter shall be construed as'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31132 of this title.

§ 31143. Investigating complaints and protecting complainants

(a) INVESTIGATING COMPLAINTS.—The Secretary of Transportation shall conduct a timely investigation of a nonfrivolous written complaint alleging that a substantial violation of a regulation prescribed under this subchapter is occurring or has occurred within the prior 60 days. The Secretary shall give the complainant timely notice of the findings of the investigation. The Secretary is not required to conduct separate investigations of duplicative complaints.

(b) PROTECTING COMPLAINANTS.—Notwithstanding section 552 of title 5, the Secretary may disclose the identity of a complainant only if disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Secretary shall take every practical means within the Secretary's authority to ensure that the complainant is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss because of the disclosure.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1012.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31143(a)	49 App.:2511(a).	Oct. 30, 1984, Pub. L. 98–554, §212, 98 Stat. 2841.
31143(b)	49 App.:2511(b).	

§ 31144. Safety fitness of owners and operators

(a) PROCEDURE.—(1) The Secretary of Transportation shall prescribe regulations establishing a procedure to decide on the safety fitness of owners and operators of commercial motor vehicles, including persons seeking new or additional operating authority as motor carriers under section 13902 of this title. The procedure shall include—

(A) specific initial and continuing requirements to be met by the owners, operators, and persons to prove safety fitness;

(B) a means of deciding whether the owners, operators, and persons meet the safety fitness requirements under clause (A) of this paragraph; and

(C) specific time deadlines for action by the Secretary in making fitness decisions.

(2) Regulations prescribed under this subsection supersede all regulations of the United States Government on safety fitness and safety rating of motor carriers in effect on October 30, 1984.

(b) FINDINGS AND ACTION ON REGISTRATIONS.—The Secretary shall find that a person seeking to register as a motor carrier is unfit if such person does not meet the safety fitness requirements established under subsection (a) and shall not register such person.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1012; Pub. L. 104–88, title I, §104(g), Dec. 29, 1995, 109 Stat. 920.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31144(a)(1) ..	49 App.:2512(a), (b).	Oct. 30, 1984, Pub. L. 98–554, §215, 98 Stat. 2844.
31144(a)(2) ..	49 App.:2512(c).	
31144(b)	49 App.:2512(d).	

In subsection (a), the word ''regulation'' is substituted for ''rule'' for consistency in the revised title and because the terms are synonymous.

In subsection (a)(1), the words ''after notice and opportunity for comment'' are omitted as unnecessary because of 5:553. The text of 49 App.:2512(b) is omitted as executed.

AMENDMENTS

1995—Subsec. (a)(1). Pub. L. 104–88, §104(g)(1)–(3), in first sentence substituted ''The Secretary'' for ''In cooperation with the Interstate Commerce Commission,

the Secretary'' and ''section 13902'' for ''sections 10922 and 10923'' and in subpar. (C) struck out ''and the Commission'' after ''Secretary''.

Subsec. (b). Pub. L. 104–88, §104(g)(4), added subsec. (b) and struck out former subsec. (b) which read as follows: ''FINDINGS AND ACTION ON APPLICATIONS.—The Commission shall—

''(1) find an applicant for authority to operate as a motor carrier unfit if the applicant does not meet the safety fitness requirements established under subsection (a) of this section; and

''(2) deny the application.''

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13902, 13905 of this title.

§ 31145. Coordination of Governmental activities and paperwork

The Secretary of Transportation shall coordinate the activities of departments, agencies, and instrumentalities of the United States Government to ensure adequate protection of the safety and health of operators of commercial motor vehicles. The Secretary shall attempt to minimize paperwork burdens to ensure maximum coordination and to avoid overlap and the imposition of unreasonable burdens on persons subject to regulations under this subchapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1012.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31145	49 App.:2517(b).	Oct. 30, 1984, Pub. L. 98–554, §220(b), 98 Stat. 2846.

§ 31146. Relationship to other laws

Except as provided in section 31136(b) of this title, this subchapter and the regulations prescribed under this subchapter do not affect chapter 51 of this title or a regulation prescribed under chapter 51.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1013.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31146	49 App.:2518.	Oct. 30, 1984, Pub. L. 98–554, §221, 98 Stat. 2846.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31102 of this title.

§ 31147. Limitations on authority

(a) TRAFFIC REGULATIONS.—This subchapter does not authorize the Secretary of Transportation to prescribe traffic safety regulations or preempt State traffic regulations. However, the Secretary may prescribe traffic regulations to the extent their subject matter was regulated under parts 390–399 of title 49, Code of Federal Regulations, on October 30, 1984.

(b) REGULATING THE MANUFACTURING OF VEHICLES.—This subchapter does not authorize the Secretary to regulate the manufacture of commercial motor vehicles for any purpose, including fuel economy, safety, or emission control.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1013.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31147(a)	49 App.:2519(a).	Oct. 30, 1984, Pub. L. 98–554, §229, 98 Stat. 2853.
31147(b)	49 App.:2519(b).	

In subsection (a), the word ''prescribe'' is substituted for ''establish or maintain'' for consistency in the revised title and with other titles of the United States Code.

SUBCHAPTER IV—MISCELLANEOUS

§ 31161. Procedures to ensure timely correction of safety violations

(a) DEFINITION.—Section 31132(1) of this title applies to this section.

(b) GENERAL.—Not later than August 3, 1991, the Secretary of Transportation shall prescribe regulations establishing procedures to ensure the proper and timely correction of commercial motor vehicle safety violations noted during an inspection carried out with money authorized under section 31104 of this title.

(c) VERIFICATION PROGRAM.—The regulations shall establish a verification program for United States Government inspectors and States participating under section 31102 of this title to ensure that commercial motor vehicles and their operators found in violation of safety requirements have been brought into compliance with those requirements. The regulations shall include—

(1) a nationwide system for random reinspection of the commercial motor vehicles and their operators that have been declared out-of-service because of those safety violations, with the main purpose of the system being to verify that the violations have been corrected on a timely basis;

(2) a program of accountability for correcting all safety violations that shall provide that—

(A) the operator of a commercial motor vehicle for which a safety violation has been noted shall be issued a form prescribed by the Secretary;

(B) the person making the repairs necessary to correct the violation shall certify on the form the making of repairs and the date, location, and time of the repairs;

(C) the motor carrier responsible for the commercial motor vehicle or operator shall certify on the form that, based on the carrier's knowledge, the repairs necessary to correct the violation have been made; and

(D) appropriate State penalties shall be imposed for a false statement on the form or a failure to return the form to the appropriate State entity; and

(3) a system for ensuring that appropriate State penalties are imposed for failure to correct any of those safety violations.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1013.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31161	49 App.:2501 (note).	Nov. 3, 1990, Pub. L. 101–500, § 15(d), (g)(1), 104 Stat. 1219, 1221.

In subsection (b), the words ''to carry out the motor carrier safety assistance program'' are omitted as surplus.

In subsection (c), the words ''section 31102 of this title'' are substituted for ''the motor carrier safety assistance program'' for clarity.

§ 31162. Compliance review priority

If the Secretary of Transportation identifies a pattern of violations of State or local traffic safety laws or regulations or commercial motor vehicle safety regulations, standards, or orders among drivers of commercial motor vehicles employed by a particular motor carrier, the Secretary or a State representative shall ensure that the motor carrier receives a high priority for review of that carrier's compliance with applicable United States Government and State commercial motor vehicle safety regulations.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1014.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31162	49 App.:2511a.	Dec. 18, 1991, Pub. L. 102–240, § 4014, 105 Stat. 2158.

CHAPTER 313—COMMERCIAL MOTOR VEHICLE OPERATORS

Sec.
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31302. Limitation on the number of driver's licenses.
31303. Notification requirements.
31304. Employer responsibilities.
31305. General driver fitness and testing.
31306. Alcohol and controlled substances testing.
31307. Minimum training requirements for operators of longer combination vehicles.
31308. Commercial driver's license.
31309. Commercial driver's license information system.
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31311. Requirements for State participation.
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31313. Grants for issuing commercial drivers' licenses and complying with State participation requirements.
31314. Withholding amounts for State noncompliance.
31315. Waiver authority.
31316. Limitation on statutory construction.
31317. Procedure for prescribing regulations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 11303, 31104 of this title; title 18 section 2721; title 20 section 1211b.

§ 31301. Definitions

In this chapter—

(1) ''alcohol'' has the same meaning given the term ''alcoholic beverage'' in section 158(c) of title 23.

(2) ''commerce'' means trade, traffic, and transportation—

(A) in the jurisdiction of the United States between a place in a State and a place outside that State (including a place outside the United States); or

(B) in the United States that affects trade, traffic, and transportation described in subclause (A) of this clause.

(3) ''commercial driver's license'' means a license issued by a State to an individual authorizing the individual to operate a class of commercial motor vehicles.

(4) ''commercial motor vehicle'' means a motor vehicle used in commerce to transport passengers or property that—

(A) has a gross vehicle weight rating of at least 26,001 pounds or a lesser gross vehicle weight rating the Secretary of Transportation prescribes by regulation, but not less than a gross vehicle weight rating of 10,001 pounds;

(B) is designed to transport at least 16 passengers including the driver; or

(C) is used to transport material found by the Secretary to be hazardous under section 5103 of this title, except that a vehicle shall not be included as a commercial motor vehicle under this subclause if—

(i) the vehicle does not satisfy the weight requirements of subclause (A) of this clause;

(ii) the vehicle transporting material listed as hazardous under section 306(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9656(a)) and not otherwise regulated by the Secretary or transporting a consumer commodity or limited quantity of hazardous material as defined in section 171.8 of title 49, Code of Federal Regulations; and

(iii) the Secretary does not deny the application of this exception to the vehicle (individually or as part of a class of motor vehicles) in the interest of safety.

(5) except in section 31306, ''controlled substance'' has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(6) ''driver's license'' means a license issued by a State to an individual authorizing the individual to operate a motor vehicle on highways.

(7) ''employee'' means an operator of a commercial motor vehicle (including an independent contractor when operating a commercial motor vehicle) who is employed by an employer.

(8) ''employer'' means a person (including the United States Government, a State, or a political subdivision of a State) that owns or leases a commercial motor vehicle or assigns employees to operate a commercial motor vehicle.

(9) ''felony'' means an offense under a law of the United States or a State that is punishable by death or imprisonment for more than one year.

(10) ''hazardous material'' has the same meaning given that term in section 5102 of this title.

(11) ''motor vehicle'' means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on public streets, roads, or highways, but does not include a vehicle, machine, tractor, trailer, or semitrailer operated only on a rail line or custom harvesting farm machinery.

(12) ''serious traffic violation'' means—

(A) excessive speeding, as defined by the Secretary by regulation;

(B) reckless driving, as defined under State or local law;

(C) a violation of a State or local law on motor vehicle traffic control (except a parking violation) and involving a fatality; and

(D) any other similar violation of a State or local law on motor vehicle traffic control (except a parking violation) that the Secretary designates by regulation as serious.

(13) ''State'' means a State of the United States and the District of Columbia.

(14) ''United States'' means the States of the United States and the District of Columbia.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1014.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31301(1)	49 App.:2716(1), (13).	Oct. 27, 1986, Pub. L. 99–570, §12019(1)–(4), (6)–(15), 100 Stat. 3207–187, 3207–188.
31301(2)	49 App.:2716(3).	
31301(3)	49 App.:2716(4).	
31301(4)	49 App.:2716(6).	
31301(5)	49 App.:2716(7).	
31301(6)	49 App.:2716(2).	
31301(7)	49 App.:2716(8).	
31301(8)	49 App.:2716(9).	
31301(9)	49 App.:2716(10).	
31301(10)	49 App.:2716(11).	
31301(11)	49 App.:2716(5).	Oct. 27, 1986, Pub. L. 99–570, §12019(5), 100 Stat. 3207–188; Apr. 2, 1987, Pub. L. 100–17, §133(c)(2), 101 Stat. 172; Dec. 18, 1991, Pub. L. 102–240, §4010, 105 Stat. 2156.
31301(12)	49 App.:2716(12).	
31301(13)	49 App.:2716(14).	
31301(14)	49 App.:2716(15).	

In clause (1), the text of 49 App.:2716(13) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

In clause (4)(A), the words ''at least 26,001 pounds'' are substituted for ''26,001 or more pounds'', and the word ''prescribes'' is substituted for ''determines appropriate'', for consistency in the revised title.

In clause (4)(B), the words ''at least 16 passengers'' are substituted for ''more than 15 passengers'' for consistency.

Clause (4)(C)(i) is substituted for ''and which has a gross vehicle weight rating of less than 26,001 pounds (or such gross vehicle weight rating as determined appropriate by the Secretary under subparagraph (A))'' to eliminate unnecessary words. In subclause (iii), the words ''deny the application of this exception'' are substituted for ''waive the application of the preceding sentence'' for clarity and because of the restatement.

In clause (11), the words ''public streets, roads, or'' are added for consistency in the revised title.

In clause (12)(C), the words ''involving a fatality'' are substituted for ''arising in connection with a fatal traffic accident'' to eliminate unnecessary words.

EXEMPTIONS FROM REQUIREMENTS RELATING TO COMMERCIAL MOTOR VEHICLES AND THEIR OPERATORS

For provisions relating to waiver of requirements of this chapter with respect to vehicles used for snow or ice removal, see section 345(a)(5) of Pub. L. 104–59, set out as a note under section 31136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 521, 31316 of this title; title 21 section 849.

§ 31302. Limitation on the number of driver's licenses

An individual operating a commercial motor vehicle may have only one driver's license at any time, except during the 10-day period beginning on the date the individual is issued a driver's license.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1015.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31302	49 App.:2701.	Oct. 27, 1986, Pub. L. 99–570, §12002, 100 Stat. 3207–170.

The words ''Effective July 1, 1987'' are omitted as executed. The words after ''issued a driver's license'' are omitted as expired.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 521, 31304 of this title.

§ 31303. Notification requirements

(a) VIOLATIONS.—An individual operating a commercial motor vehicle, having a driver's license issued by a State, and violating a State or local law on motor vehicle traffic control (except a parking violation) shall notify the individual's employer of the violation. If the violation occurred in a State other than the issuing State, the individual also shall notify a State official designated by the issuing State. The notifications required by this subsection shall be made not later than 30 days after the date the individual is found to have committed the violation.

(b) REVOCATIONS, SUSPENSIONS, AND CANCELLATIONS.—An employee who has a driver's license revoked, suspended, or canceled by a State, who loses the right to operate a commercial motor vehicle in a State for any period, or who is disqualified from operating a commercial motor vehicle for any period, shall notify the employee's employer of the action not later than 30 days after the date of the action.

(c) PREVIOUS EMPLOYMENT.—(1) Subject to paragraph (2) of this subsection, an individual applying for employment as an operator of a commercial motor vehicle shall notify the prospective employer, at the time of the application, of any previous employment as an operator of a commercial motor vehicle.

(2) The Secretary of Transportation shall prescribe by regulation the period for which notice of previous employment must be given under paragraph (1) of this subsection. However, the period may not be less than the 10-year period ending on the date of the application.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1016.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31303	49 App.:2702.	Oct. 27, 1986, Pub. L. 99–570, §12003, 100 Stat. 3207–171.

In this section, the words ''Effective July 1, 1987'' are omitted as executed.

In subsection (c)(1), the words ''operates a commercial motor vehicle and'' and ''with an employer'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 521 of this title.

§ 31304. Employer responsibilities

An employer may not knowingly allow an employee to operate a commercial motor vehicle in the United States during a period in which the employee—

(1) has a driver's license revoked, suspended, or canceled by a State, has lost the right to operate a commercial motor vehicle in a State, or has been disqualified from operating a commercial motor vehicle; or

(2) has more than one driver's license (except as allowed under section 31302 of this title).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1016.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31304	49 App.:2703.	Oct. 27, 1986, Pub. L. 99–570, §12004, 100 Stat. 3207–171.

In this section, before clause (1), the words ''Effective July 1, 1987'' are omitted as executed. The words ''permit, or authorize'' are omitted as surplus. Clause (2) is substituted for 49 App.:2703(2) to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 521 of this title.

§ 31305. General driver fitness and testing

(a) MINIMUM STANDARDS FOR TESTING AND FITNESS.—The Secretary of Transportation shall prescribe regulations on minimum standards for testing and ensuring the fitness of an individual operating a commercial motor vehicle. The regulations—

(1) shall prescribe minimum standards for written and driving tests of an individual operating a commercial motor vehicle;

(2) shall require an individual who operates or will operate a commercial motor vehicle to take a driving test in a vehicle representative of the type of vehicle the individual operates or will operate;

(3) shall prescribe minimum testing standards for the operation of a commercial motor vehicle and may prescribe different minimum testing standards for different classes of commercial motor vehicles;

(4) shall ensure that an individual taking the tests has a working knowledge of—

(A) regulations on the safe operation of a commercial motor vehicle prescribed by the Secretary and contained in title 49, Code of Federal Regulations; and

(B) safety systems of the vehicle;

(5) shall ensure that an individual who operates or will operate a commercial motor vehicle carrying a hazardous material—

(A) is qualified to operate the vehicle under regulations on motor vehicle transportation of hazardous material prescribed under chapter 51 of this title; and

(B) has a working knowledge of—

(i) those regulations;

(ii) the handling of hazardous material;

(iii) the operation of emergency equipment used in response to emergencies arising out of the transportation of hazardous material; and

(iv) appropriate response procedures to follow in those emergencies;

(6) shall establish minimum scores for passing the tests;

(7) shall ensure that an individual taking the tests is qualified to operate a commercial motor vehicle under regulations prescribed by the Secretary and contained in title 49, Code of Federal Regulations, to the extent the regulations apply to the individual; and

(8) may require—

(A) issuance of a certification of fitness to operate a commercial motor vehicle to an individual passing the tests; and

(B) the individual to have a copy of the certification in the individual's possession when the individual is operating a commercial motor vehicle.

(b) REQUIREMENTS FOR OPERATING VEHICLES.—(1) Except as provided in paragraph (2) of this subsection, an individual may operate a commercial motor vehicle only if the individual has passed written and driving tests to operate the vehicle that meet the minimum standards prescribed by the Secretary under subsection (a) of this section.

(2) The Secretary may prescribe regulations providing that an individual may operate a commercial motor vehicle for not more than 90 days if the individual—

(A) passes a driving test for operating a commercial motor vehicle that meets the minimum standards prescribed under subsection (a) of this section; and

(B) has a driver's license that is not suspended, revoked, or canceled.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1016.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31305(a)	49 App.:2704(a).	Oct. 27, 1986, Pub. L. 99–570, §12005(a), (b), 100 Stat. 3207–171.
31305(b)	49 App.:2704(b).	

In this section, the word ''Federal'' is omitted as unnecessary.

In subsection (a), before clause (1), the words ''Not later than July 15, 1988'' are omitted as obsolete. In clause (3), the words ''if the Secretary considers appropriate to carry out the objectives of this title'' are omitted as unnecessary.

In subsection (b)(1), the words ''taken and'' are omitted as unnecessary. The text of 49 App.:2704(b)(3) is omitted as obsolete.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 521, 31308, 31311, 31312 of this title.

§ 31306. Alcohol and controlled substances testing

(a) DEFINITION.—In this section, ''controlled substance'' means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) specified by the Secretary of Transportation.

(b) TESTING PROGRAM FOR OPERATORS OF COMMERCIAL MOTOR VEHICLES.—(1)(A) In the interest of commercial motor vehicle safety, the Secretary of Transportation shall prescribe regulations that establish a program requiring motor carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of operators of commercial motor vehicles for the use of a controlled substance in violation of law or a United States Government regulation and to conduct reasonable suspicion, random, and post-accident testing of such operators for the use of alcohol in violation of law or a United States Government regulation. The regulations shall permit such motor carriers to conduct preemployment testing of such employees for the use of alcohol.

(B) When the Secretary of Transportation considers it appropriate in the interest of safety, the Secretary may prescribe regulations for conducting periodic recurring testing of operators of commercial motor vehicles for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(2) In prescribing regulations under this subsection, the Secretary of Transportation—

(A) shall require that post-accident testing of an operator of a commercial motor vehicle be conducted when loss of human life occurs in an accident involving a commercial motor vehicle; and

(B) may require that post-accident testing of such an operator be conducted when bodily injury or significant property damage occurs in any other serious accident involving a commercial motor vehicle.

(c) TESTING AND LABORATORY REQUIREMENTS.—In carrying out subsection (b) of this section, the Secretary of Transportation shall develop requirements that shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;

(2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines, including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested; and

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that a laboratory involved in testing under this section have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that any test indicating the use of alcohol or a controlled substance in violation of law or a Government regulation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent the possibility of tampering, so that if the individual's confirmation test results are positive the individual has an opportunity to have the retained part tested by a 2d confirmation test done independently at another certified laboratory if the individual requests the 2d confirmation test not later than 3 days after being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (except information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(d) TESTING AS PART OF MEDICAL EXAMINATION.—The Secretary of Transportation may provide that testing under subsection (a) of this section for operators subject to subpart E of part 391 of title 49, Code of Federal Regulations, be conducted as part of the medical examination required under that subpart.

(e) REHABILITATION.—The Secretary of Transportation shall prescribe regulations establishing requirements for rehabilitation programs that provide for the identification and opportunity for treatment of operators of commercial motor vehicles who are found to have used alcohol or a controlled substance in violation of law or a Government regulation. The Secretary shall decide on the circumstances under which

those operators shall be required to participate in a program. This section does not prevent a motor carrier from establishing a program under this section in cooperation with another motor carrier.

(f) SANCTIONS.—The Secretary of Transportation shall decide on appropriate sanctions for a commercial motor vehicle operator who is found, based on tests conducted and confirmed under this section, to have used alcohol or a controlled substance in violation of law or a Government regulation but who is not under the influence of alcohol or a controlled substance as provided in this chapter.

(g) EFFECT ON STATE AND LOCAL GOVERNMENT REGULATIONS.—A State or local government may not prescribe or continue in effect a law, regulation, standard, or order that is inconsistent with regulations prescribed under this section. However, a regulation prescribed under this section may not be construed to preempt a State criminal law that imposes sanctions for reckless conduct leading to loss of life, injury, or damage to property.

(h) INTERNATIONAL OBLIGATIONS AND FOREIGN LAWS.—In prescribing regulations under this section, the Secretary of Transportation—

(1) shall establish only requirements that are consistent with international obligations of the United States; and

(2) shall consider applicable laws and regulations of foreign countries.

(i) OTHER REGULATIONS ALLOWED.—This section does not prevent the Secretary of Transportation from continuing in effect, amending, or further supplementing a regulation prescribed before October 28, 1991, governing the use of alcohol or a controlled substance by commercial motor vehicle employees.

(j) APPLICATION OF PENALTIES.—This section does not supersede a penalty applicable to an operator of a commercial motor vehicle under this chapter or another law.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1017; Pub. L. 104–59, title III, §342(c), Nov. 28, 1995, 109 Stat. 609.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31306(a)	49 App.:2717(g).	Oct. 27, 1986, Pub. L. 99–570, 100 Stat. 3207–170, §12020; added Oct. 28, 1991, Pub. L. 102–143, §5(a)(1), 105 Stat. 959.
31306(b)(1) ..	49 App.:2717(a).	
31306(b)(2) ..	49 App.:2717(b)(1).	
31306(c)	49 App.:2717(d).	
31306(d)	49 App.:2717(b)(2).	
31306(e)	49 App.:2717(c).	
31306(f)	49 App.:2717(f)(2).	
31306(g)	49 App.:2717(e)(1).	
31306(h)	49 App.:2717(e)(3).	
31306(i)	49 App.:2717(e)(2).	
31306(j)	49 App.:2717(f)(1).	

In subsection (b)(2)(B), the words ''may require'' are substituted for ''as determined by the Secretary'' for clarity and to eliminate unnecessary words.

In subsection (c)(2), before subclause (A), the word ''subsequent'' is omitted as surplus.

In subsection (c)(3), the words ''of any individual'' are omitted as surplus.

In subsection (c)(4), the words ''by any individual'' are omitted as surplus.

In subsection (c)(5), the word ''tested'' is substituted for ''assayed'' for consistency. The words ''2d confirmation test'' are substituted for ''independent test'' for clarity and consistency.

In subsection (c)(6), the word ''Secretary'' is substituted for ''Department'' for consistency in the revised title and with other titles of the Code.

In subsection (d), the words ''The Secretary of Transportation may provide'' are substituted for ''Nothing in subsection (a) of this section shall preclude the Secretary from providing'' for clarity and to eliminate unnecessary words.

In subsection (g), the words ''rule'' and ''ordinance'' are omitted as being included in ''law, regulation, standard, or order''. The words ''whether the provisions apply specifically to commercial motor vehicle employees, or to the general public'' are omitted as surplus.

AMENDMENTS

1995—Subsec. (b)(1)(A). Pub. L. 104–59 added subpar. (A) and struck out former subpar. (A) which read as follows: ''In the interest of commercial motor vehicle safety, the Secretary of Transportation shall prescribe regulations not later than October 28, 1992, that establish a program requiring motor carriers to conduct preemployment, reasonable suspicion, random, and postaccident testing of operators of commercial motor vehicles for the use of alcohol or a controlled substance in violation of law or a United States Government regulation.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5331, 31301 of this title.

§31307. Minimum training requirements for operators of longer combination vehicles

(a) DEFINITION.—In this section, ''longer combination vehicle'' means a vehicle consisting of a truck tractor and more than one trailer or semitrailer that operates on the Dwight D. Eisenhower System of Interstate and Defense Highways with a gross vehicle weight of more than 80,000 pounds.

(b) REQUIREMENTS.—Not later than December 18, 1994, the Secretary of Transportation shall prescribe regulations establishing minimum training requirements for operators of longer combination vehicles. The training shall include certification of an operator's proficiency by an instructor who has met the requirements established by the Secretary.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1020.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31307(a)	49 App.:2302 (note).	Dec. 18, 1991, Pub. L. 102–240, §4007(f), 105 Stat. 2153.
31307(b)	49 App.:2302 (note).	Dec. 18, 1991, Pub. L. 102–240, §4007(b), 105 Stat. 2152.

In subsection (a), the words ''a vehicle consisting'' are substituted for ''any combination'' for clarity. The words ''Dwight D. Eisenhower System of Interstate and Defense Highways'' are substituted for ''National System of Interstate and Defense Highways'' because of the Act of October 15, 1990 (Public Law 101–427, 104 Stat. 927).

In subsection (b), the words ''Not later than 60 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding'' are omitted as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31317 of this title.

§ 31308. Commercial driver's license

After consultation with the States, the Secretary of Transportation shall prescribe regulations on minimum uniform standards for the issuance of commercial drivers' licenses by the States and for information to be contained on each of the licenses. The standards shall require at a minimum that—

(1) an individual issued a commercial driver's license pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a) of this title;

(2) the license be tamperproof to the maximum extent practicable; and

(3) the license contain—

(A) the name and address of the individual issued the license and a physical description of the individual;

(B) the social security account number or other number or information the Secretary decides is appropriate to identify the individual;

(C) the class or type of commercial motor vehicle the individual is authorized to operate under the license;

(D) the name of the State that issued the license; and

(E) the dates between which the license is valid.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1020.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31308	49 App.:2705.	Oct. 27, 1986, Pub. L. 99–570, § 12006, 100 Stat. 3207–175.

The words ''Not later than July 15, 1988'' are omitted as obsolete.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31311 of this title.

§ 31309. Commercial driver's license information system

(a) GENERAL REQUIREMENT.—The Secretary of Transportation shall make an agreement under subsection (b) of this section for the operation of, or establish under subsection (c) of this section, an information system that will serve as a clearinghouse and depository of information about the licensing, identification, and disqualification of operators of commercial motor vehicles. The Secretary shall consult with the States in carrying out this section.

(b) STATE AGREEMENTS.—If the Secretary decides that an information system used by a State or States about the driving status of operators of motor vehicles or another State-operated information system could be used to carry out this section, and the State or States agree to the use of the system for carrying out this section, the Secretary may make an agreement with the State or States to use the system as provided in this section and section 31311(c) of this title. An agreement made under this subsection shall contain terms the Secretary considers necessary to carry out this chapter.

(c) ESTABLISHMENT BY SECRETARY.—If the Secretary does not make an agreement under subsection (b) of this section, the Secretary shall establish an information system about the driving status and licensing of operators of commercial motor vehicles as provided in this section.

(d) CONTENTS.—(1) At a minimum, the information system under this section shall include for each operator of a commercial motor vehicle—

(A) information the Secretary considers appropriate to ensure identification of the operator;

(B) the name, address, and physical description of the operator;

(C) the social security account number of the operator or other number or information the Secretary considers appropriate to identify the operator;

(D) the name of the State that issued the license to the operator;

(E) the dates between which the license is valid; and

(F) whether the operator had a commercial motor vehicle driver's license revoked, suspended, or canceled by a State, lost the right to operate a commercial motor vehicle in a State for any period, or has been disqualified from operating a commercial motor vehicle.

(2) Not later than December 31, 1990, the Secretary shall prescribe regulations on minimum uniform standards for a biometric identification system to ensure the identification of operators of commercial motor vehicles.

(e) AVAILABILITY OF INFORMATION.—(1) On request of a State, the Secretary or the operator of the information system, as the case may be, may make available to the State information in the information system under this section.

(2) On request of an employee, the Secretary or the operator of the information system, as the case may be, may make available to the employee information in the information system about the employee.

(3) On request of an employer or prospective employer of an employee and after notification to the employee, the Secretary or the operator of the information system, as the case may be, may make available to the employer or prospective employer information in the information system about the employee.

(4) On the request of the Secretary, the operator of the information system shall make available to the Secretary information about the driving status and licensing of operators of commercial motor vehicles (including information required by subsection (d)(1) of this section).

(f) FEE SYSTEM.—If the Secretary establishes an information system under this section, the Secretary shall establish a fee system for using the information system. Fees collected under this subsection in a fiscal year shall equal as nearly as possible the costs of operating the information system in that fiscal year. The Secretary shall deposit fees collected under this subsection in the Highway Trust Fund (except the Mass Transit Account).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1020.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31309(a)	49 App.:2706(a).	Oct. 27, 1986, Pub. L. 99–570, § 12007, 100 Stat. 3207–175.
31309(b)	49 App.:2706(b).	
31309(c)	49 App.:2706(c).	
31309(d)(1) ..	49 App.:2706(d).	
31309(d)(2) ..	49 App.:2706 (note).	Nov. 18, 1988, Pub. L. 100–690, § 9105(a), 102 Stat. 4530.
31309(e)	49 App.:2706(e).	
31309(f)	49 App.:2706(f), (g).	
	49 App.:2706 (note).	Nov. 18, 1988, Pub. L. 100–690, § 9105(b), 102 Stat. 4530.

In subsection (a), the words ''Not later than January 1, 1989'' are omitted as obsolete. The words ''shall consult with'' are substituted for ''consult'' for clarity.

In subsection (b), the text of 49 App.:2706(b)(1) is omitted as executed. The words ''utilizing such system'' are omitted as surplus.

In subsection (f), the text of 49 App.:2706(g) and section 9105(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100–690, 102 Stat. 4530) is omitted as obsolete.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31311, 31313 of this title.

§ 31310. Disqualifications

(a) BLOOD ALCOHOL CONCENTRATION LEVEL.—In this section, the blood alcohol concentration level at or above which an individual when operating a commercial motor vehicle is deemed to be driving under the influence of alcohol is .04 percent.

(b) FIRST VIOLATION OR COMMITTING FELONY.—(1) Except as provided in paragraph (2) of this subsection and subsection (c) of this section, the Secretary of Transportation shall disqualify from operating a commercial motor vehicle for at least one year an individual—

(A) committing a first violation of driving a commercial motor vehicle under the influence of alcohol or a controlled substance;

(B) committing a first violation of leaving the scene of an accident involving a commercial motor vehicle operated by the individual; or

(C) using a commercial motor vehicle in committing a felony (except a felony described in subsection (d) of this section).

(2) If the vehicle involved in a violation referred to in paragraph (1) of this subsection is transporting hazardous material required to be placarded under section 5103 of this title, the Secretary shall disqualify the individual for at least 3 years.

(c) SECOND AND MULTIPLE VIOLATIONS.—(1) Subject to paragraph (2) of this subsection, the Secretary shall disqualify from operating a commercial motor vehicle for life an individual—

(A) committing more than one violation of driving a commercial motor vehicle under the influence of alcohol or a controlled substance;

(B) committing more than one violation of leaving the scene of an accident involving a commercial motor vehicle operated by the individual;

(C) using a commercial motor vehicle in committing more than one felony arising out of different criminal episodes; or

(D) committing any combination of single violations or use described in clauses (A)–(C) of this paragraph.

(2) The Secretary may prescribe regulations establishing guidelines (including conditions) under which a disqualification for life under paragraph (1) of this subsection may be reduced to a period of not less than 10 years.

(d) CONTROLLED SUBSTANCE VIOLATIONS.—The Secretary shall disqualify from operating a commercial motor vehicle for life an individual who uses a commercial motor vehicle in committing a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

(e) SERIOUS TRAFFIC VIOLATIONS.—(1) The Secretary shall disqualify from operating a commercial motor vehicle for at least 60 days an individual who, in a 3-year period, commits 2 serious traffic violations involving a commercial motor vehicle operated by the individual.

(2) The Secretary shall disqualify from operating a commercial motor vehicle for at least 120 days an individual who, in a 3-year period, commits 3 serious traffic violations involving a commercial motor vehicle operated by the individual.

(f) STATE DISQUALIFICATION.—Notwithstanding subsections (b)–(e) of this section, the Secretary does not have to disqualify an individual from operating a commercial motor vehicle if the State that issued the individual a license authorizing the operation has disqualified the individual from operating a commercial motor vehicle under subsections (b)–(e). Revocation, suspension, or cancellation of the license is deemed to be disqualification under this subsection.

(g) OUT-OF-SERVICE ORDERS.—(1)(A) To enforce section 392.5 of title 49, Code of Federal Regulations, the Secretary shall prescribe regulations establishing and enforcing an out-of-service period of 24 hours for an individual who violates section 392.5. An individual may not violate an out-of-service order issued under those regulations.

(B) The Secretary shall prescribe regulations establishing and enforcing requirements for reporting out-of-service orders issued under regulations prescribed under subparagraph (A) of this paragraph. Regulations prescribed under this subparagraph shall require at least that an operator of a commercial motor vehicle who is issued an out-of-service order to report the issuance to the individual's employer and to the State that issued the operator a driver's license.

(2) Not later than December 18, 1992, the Secretary shall prescribe regulations establishing sanctions and penalties related to violations of out-of-service orders by individuals operating commercial motor vehicles. The regulations shall require at least that—

(A) an operator of a commercial motor vehicle found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 90 days and liable for a civil penalty of at least $1,000;

(B) an operator of a commercial motor vehicle found to have committed a 2d violation of an out-of-service order shall be disqualified from operating such a vehicle for at least one year and not more than 5 years and liable for a civil penalty of at least $1,000; and

(C) an employer that knowingly allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be liable for a civil penalty of not more than $10,000.

(h) GRADE-CROSSING VIOLATIONS.—

(1) SANCTIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations, by persons operating commercial motor vehicles, of laws and regulations pertaining to railroad-highway grade crossings.

(2) MINIMUM REQUIREMENTS.—The regulations issued under paragraph (1) shall, at a minimum, require that—

(A) the penalty for a single violation is not less than a 60-day disqualification of the driver's commercial driver's license; and

(B) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of such a law or regulation shall be subject to a civil penalty of not more than $10,000.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1022; Pub. L. 104–88, title IV, § 403(a), Dec. 29, 1995, 109 Stat. 956.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31310(a)	49 App.:2707(f).	Oct. 27, 1986, Pub. L. 99–570, § 12008, 100 Stat. 3207–177.
31310(b)	49 App.:2707(a)(1).	
31310(c)	49 App.:2707(a)(2).	
31310(d)	49 App.:2707(b).	
31310(e)	49 App.:2707(c).	
31310(f)	49 App.:2707(e).	
31310(g)(1) ..	49 App.:2707(d).	
31310(g)(2) ..	49 App.:2718.	Oct. 27, 1986, Pub. L. 99–570, 100 Stat. 3207–170, § 12020; added Dec. 18, 1991, Pub. L. 102–240, § 4009(a), 105 Stat. 2156.

In subsection (a), the text of 49 App.:2707(f)(1)–(4) (words before 2d comma) is omitted as executed and obsolete. The words ''and section 2708 of the Appendix'' are omitted as surplus.

In subsection (b)(2), the words ''involved in a violation'' are substituted for ''operated or used in connection with the violation or the commission of the felony'' to eliminate unnecessary words. The words ''by the Secretary'' are omitted as surplus.

Subsection (c)(1)(D) is substituted for 49 App.:2707(a)(2)(A)(iv) for clarity and to eliminate unnecessary words.

In subsection (g)(1)(A), the words ''Not later than 1 year after October 27, 1986'' are omitted as obsolete.

In subsection (g)(2), before clause (A), the words ''Not later than December 18, 1992, the Secretary shall prescribe regulations'' are substituted for ''The Secretary shall issue regulations'' and 49 App.:2718(c) to eliminate executed words. The word ''individuals'' is substituted for ''persons'' for clarity and consistency in the revised title and with other titles of the United States Code. In clause (C), the words ''permits, authorizes'' are omitted as being included in ''allows''.

AMENDMENTS

1995—Subsec. (h). Pub. L. 104–88 added subsec. (h).

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.

REGULATIONS

Section 403(b) of Pub. L. 104–88 provided that: ''The initial regulations required under section 31310(h) of title 49, United States Code, shall be issued not later than 1 year after the date of the enactment of this Act [Dec. 29, 1995].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 521, 31311 of this title.

§ 31311. Requirements for State participation

(a) GENERAL.—To avoid having amounts withheld from apportionment under section 31314 of this title, a State shall comply with the following requirements:

(1) The State shall adopt and carry out a program for testing and ensuring the fitness of individuals to operate commercial motor vehicles consistent with the minimum standards prescribed by the Secretary of Transportation under section 31305(a) of this title.

(2) The State may issue a commercial driver's license to an individual only if the individual passes written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards.

(3) The State shall have in effect and enforce a law providing that an individual with a blood alcohol concentration level at or above the level established by section 31310(a) of this title when operating a commercial motor vehicle is deemed to be driving under the influence of alcohol.

(4) The State shall authorize an individual to operate a commercial motor vehicle only by issuing a commercial driver's license containing the information described in section 31308(3) of this title.

(5) At least 60 days before issuing a commercial driver's license (or a shorter period the Secretary prescribes by regulation), the State shall notify the Secretary or the operator of the information system under section 31309 of this title, as the case may be, of the proposed issuance of the license and other information the Secretary may require to ensure identification of the individual applying for the license.

(6) Before issuing a commercial driver's license to an individual, the State shall request from any other State that has issued a commercial driver's license to the individual all information about the driving record of the individual.

(7) Not later than 30 days after issuing a commercial driver's license, the State shall notify the Secretary or the operator of the information system under section 31309 of this title, as the case may be, of the issuance.

(8) Not later than 10 days after disqualifying the holder of a commercial driver's license from operating a commercial motor vehicle (or after revoking, suspending, or canceling the license) for at least 60 days, the State shall notify the Secretary or the operator of the information system under section 31309 of this title, as the case may be, and the State that issued the license, of the disqualification, revocation, suspension, or cancellation.

(9) If an individual operating a commercial motor vehicle violates a State or local law on

motor vehicle traffic control (except a parking violation) and the individual has a driver's license issued by another State, the State in which the violation occurred shall notify a State official designated by the issuing State of the violation not later than 10 days after the date the individual is found to have committed the violation.

(10) The State may not issue a commercial driver's license to an individual during a period in which the individual is disqualified from operating a commercial motor vehicle or the individual's driver's license is revoked, suspended, or canceled.

(11) The State may issue a commercial driver's license to an individual who has a commercial driver's license issued by another State only if the individual first returns the driver's license issued by the other State.

(12) The State may issue a commercial driver's license only to an individual who operates or will operate a commercial motor vehicle and is domiciled in the State, except that, under regulations the Secretary shall prescribe, the State may issue a commercial driver's license to an individual who operates or will operate a commercial motor vehicle and is not domiciled in a State that issues commercial drivers' licenses.

(13) The State shall impose penalties the State considers appropriate and the Secretary approves for an individual operating a commercial motor vehicle when the individual—

(A) does not have a commercial driver's license;

(B) has a driver's license revoked, suspended, or canceled; or

(C) is disqualified from operating a commercial motor vehicle.

(14) The State shall allow an individual to operate a commercial motor vehicle in the State if—

(A) the individual has a commercial driver's license issued by another State under the minimum standards prescribed by the Secretary under section 31305(a) of this title;

(B) the license is not revoked, suspended, or canceled; and

(C) the individual is not disqualified from operating a commercial motor vehicle.

(15) The State shall disqualify an individual from operating a commercial motor vehicle for the same reasons and time periods for which the Secretary shall disqualify the individual under section 31310(b)–(e) of this title.

(16)(A) Before issuing a commercial driver's license to an individual, the State shall request the Secretary for information from the National Driver Register maintained under chapter 303 of this title (after the Secretary decides the Register is operational) on whether the individual—

(i) has been disqualified from operating a motor vehicle (except a commercial motor vehicle);

(ii) has had a license (except a license authorizing the individual to operate a commercial motor vehicle) revoked, suspended, or canceled for cause in the 3-year period ending on the date of application for the commercial driver's license; or

(iii) has been convicted of an offense specified in section 30304(a)(3) of this title.

(B) The State shall give full weight and consideration to that information in deciding whether to issue the individual a commercial driver's license.

(17) The State shall adopt and enforce regulations prescribed by the Secretary under section 31310(g)(1)(A) and (2) of this title.

(18) The State shall adopt and enforce regulations prescribed by the Secretary under section 31310(h) of this title.

(b) STATE SATISFACTION OF REQUIREMENTS.—A State may satisfy the requirements of subsection (a) of this section that the State disqualify an individual from operating a commercial motor vehicle by revoking, suspending, or canceling the driver's license issued to the individual.

(c) NOTIFICATION.—Not later than 30 days after being notified by a State of the proposed issuance of a commercial driver's license to an individual, the Secretary or the operator of the information system under section 31309 of this title, as the case may be, shall notify the State whether the individual has a commercial driver's license issued by another State or has been disqualified from operating a commercial motor vehicle by another State or the Secretary.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1023; Pub. L. 104–88, title IV, § 403(c), Dec. 29, 1995, 109 Stat. 956.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31311	49 App.:2708.	Oct. 27, 1986, Pub. L. 99–570, § 12009, 100 Stat. 3207–179; Dec. 18, 1991, Pub. L. 102–240, § 4009(b), 105 Stat. 2156.

Subsection (a)(15) is substituted for 49 App.:2708(a)(15)–(19) for consistency with section 31310(b)–(e) of the revised title and to avoid repeating the language restated in section 31310(b)–(e).

In subsection (b), the words ''in accordance with the requirements of such subsection'' are omitted as surplus.

AMENDMENTS

1995—Subsec. (a)(18). Pub. L. 104–88 added par. (18).

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31309, 31312, 31313, 31314 of this title.

§ 31312. Grants for testing and ensuring the fitness of operators of commercial motor vehicles

(a) BASIC GRANTS.—(1) The Secretary of Transportation may make a grant to a State under this subsection if the State—

(A) makes an agreement with the Secretary—

(i) to adopt and carry out in the fiscal year in which the grant is made a program for

testing and ensuring the fitness of individuals who operate commercial motor vehicles under the minimum standards prescribed by the Secretary under section 31305(a) of this title; and

(ii) to require that operators of commercial motor vehicles have passed written and driving tests that meet the minimum standards; and

(B) has in effect and enforces in that fiscal year a law providing that an individual with a blood alcohol concentration of at least .10 percent when operating a commercial motor vehicle is deemed to be driving under the influence of alcohol.

(2) A State may—

(A) administer driving tests referred to in paragraph (1) of this subsection and section 31311(a) of this title; or

(B) make an agreement, approved by the Secretary, for the tests to be administered by a person (including a department, agency, or instrumentality of a local government) that meets minimum standards the Secretary prescribes by regulation if—

(i) the agreement allows the Secretary and the State each to conduct random examinations, inspections, and audits of the testing without prior notification; and

(ii) the State annually conducts at least one onsite inspection of the testing.

(3) The Secretary shall decide on the amount of a grant in a fiscal year to be made under this subsection to a State eligible to receive the grant in the fiscal year. However—

(A) a grant to a State under this subsection shall be at least $100,000 in a fiscal year; and

(B) to the extent each State grant under this subsection is more than $100,000 in a fiscal year, the Secretary shall ensure that those States are treated equitably.

(4) A State receiving a grant under this subsection may use the amounts provided under the grant only to test operators of commercial motor vehicles.

(5) There is available to the Secretary to carry out this subsection $_____ from amounts made available under section 31104 of this title for the fiscal year ending September 30, 19__.

(b) SUPPLEMENTAL GRANTS.—(1) The Secretary may make a grant under this subsection in a fiscal year to a State eligible to receive a grant under subsection (a) of this section in that fiscal year. A grant made under this subsection shall be used for testing operators of commercial motor vehicles.

(2) Amounts of grants under this subsection shall be distributed among the States eligible to receive grants under subsection (a) of this section in the fiscal year on the basis of the number of written and driving tests administered, and the number of drivers' licenses for the operation of commercial motor vehicles issued, in the prior fiscal year.

(3) There is available to the Secretary to carry out this subsection $_____ from amounts made available under section 31104 of this title for the fiscal year ending September 30, 19__.

(c) MAINTENANCE OF EXPENDITURES.—The Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, for testing operators of commercial motor vehicles will be maintained at a level at least equal to the average level of that expenditure for its last 2 fiscal years before October 27, 1986.

(d) AVAILABILITY OF AMOUNTS.—(1) Amounts made available to a State under this section remain available for obligation by the State for the fiscal year for which the amounts are made available. Any of those amounts not obligated before the last day of that fiscal year are no longer available for obligation by the State and are available to the Secretary to carry out this chapter.

(2) Amounts made available to the Secretary under this section remain available until expended.

(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant to a State under this section is a contractual obligation of the Government for payment of the amount of the grant.

(f) TESTING AND FITNESS PROGRAM STUDIES.—In this section, development of a program for testing and ensuring the fitness of individuals who operate commercial motor vehicles includes studies of—

(1) the number of vehicles that will need to be tested under the program in a calendar year;

(2) facilities at which testing of those individuals could be conducted; and

(3) additional resources (including personnel) that will be necessary to conduct the testing.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1025.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31312(a)	49 App.:2704(c)(1)–(5), (7).	Oct. 27, 1986, Pub. L. 99–570, § 12005(c)–(e), 100 Stat. 3207–173.
31312(b)	49 App.:2704(d).	
31312(c)	49 App.:2704(e)(1).	
31312(d)	49 App.:2704(e)(2).	
31312(e)	49 App.:2704(e)(3).	
31312(f)	49 App.:2704(c)(6).	

In subsections (a) and (b), the words ''in a fiscal year beginning after September 30, 1989'' and ''in any fiscal year beginning after September 30, 1989'' are omitted as obsolete.

In subsection (a)(1), before clause (A), the text of 49 App.:2704(c)(1) is omitted as obsolete.

In subsection (a)(4), the text of 49 App.:2704(c)(5)(A) is omitted as obsolete.

In subsections (a)(5) and (b)(3), the word ''under'' is substituted for ''to carry out'' the 2d time they appear for clarity.

In subsection (a)(5), the references to fiscal years 1987–1991 are omitted as obsolete.

In subsection (b)(1), the text of 49 App.:2704(d)(1) (2d sentence) is omitted as obsolete.

In subsection (b)(3), the text of 49 App.:2704(d)(3)(A) and the references to fiscal years 1989–1991 are omitted as obsolete.

In subsection (d)(1), the words ''made available to a State under this section'' are substituted for ''made available to carry out this subsection'' for clarity and to correct a cross-reference error in the source provisions.

In subsection (d)(2), the words ''to the Secretary'' are added for clarity.

In subsection (e), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The words ''shall be deemed'' are omitted as unnecessary because the text is a restatement of a legal conclusion.

§ 31313. Grants for issuing commercial drivers' licenses and complying with State participation requirements

(a) GENERAL AUTHORITY.—The Secretary of Transportation may make a grant under this section to a State in a fiscal year if the State makes an agreement with the Secretary to participate in that fiscal year in the commercial driver's license program established by this chapter and the information system required by section 31309 of this title and to comply with the requirements of section 31311(a) of this title.

(b) AMOUNTS OF GRANTS.—The Secretary shall decide on the amount of a grant in a fiscal year to be made under this section to a State eligible to receive the grant in the fiscal year. However—

(1) a grant to a State under this section shall be at least $100,000 in a fiscal year; and

(2) to the extent each State grant under this section is more than $100,000 in a fiscal year, the Secretary shall ensure that those States are treated equitably.

(c) LIMITATION ON USE.—A State receiving a grant under this section may use the amounts provided under the grant only for issuing commercial drivers' licenses and complying with the requirements of section 31311(a) of this title.

(d) AVAILABILITY OF AMOUNTS.—(1) Amounts made available to a State under this section remain available for obligation by the State for the fiscal year for which the amounts are made available. Any of those amounts not obligated before the last day of that fiscal year are no longer available for obligation by the State and are available to the Secretary to carry out this chapter.

(2) Amounts made available to the Secretary under this section remain available until expended.

(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant to a State under this section is a contractual obligation of the United States Government for payment of the amount of the grant.

(f) AUTHORIZATION.—There is available to the Secretary to carry out this section $_____ from amounts made available under section 31104 of this title for the fiscal year ending September 30, 19__.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1027.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31313(a)	49 App.:2709(a).	Oct. 27, 1986, Pub. L. 99–570, §12010, 100 Stat. 3207–183.
31313(b)	49 App.:2709(b).	
31313(c)	49 App.:2709(c).	
31313(d)	49 App.:2709(d).	
31313(e)	49 App.:2709(e).	
31313(f)	49 App.:2709(f).	

In this section, the word ''amounts'' is substituted for ''funds'' for consistency in the revised title.

In subsections (a) and (c), the cross-reference to section 31311 of the revised title is limited to section 31311(a) to be more precise and to be consistent with the cross-reference to section 31311(a) in section 31314 of the revised title.

In subsection (d)(2), the words ''to the Secretary'' are added for clarity.

In subsection (e), the words ''shall be deemed'' are omitted as unnecessary because the text is a restatement of a legal conclusion.

In subsection (f), the word ''under'' is substituted for ''to carry out'' the 2d time they appear for clarity. The references to fiscal years 1989–1991 are omitted as obsolete.

§ 31314. Withholding amounts for State noncompliance

(a) FIRST FISCAL YEAR.—The Secretary of Transportation shall withhold 5 percent of the amount required to be apportioned to a State under section 104(b)(1), (2), (5), and (6) of title 23 on the first day of the fiscal year after the first fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31311(a) of this title.

(b) SECOND FISCAL YEAR.—The Secretary shall withhold 10 percent of the amount required to be apportioned to a State under section 104(b)(1), (2), (5), and (6) of title 23 on the first day of each fiscal year after the 2d fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31311(a) of this title.

(c) AVAILABILITY FOR APPORTIONMENT.—(1) Amounts withheld under this section from apportionment to a State before October 1, 1995, remain available for apportionment to the State as follows:

(A) If the amounts would have been apportioned under section 104(b)(5)(B) of title 23 but for this section, the amounts remain available until the end of the 2d fiscal year following the fiscal year for which the amounts are authorized to be appropriated.

(B) If the amounts would have been apportioned under section 104(b)(1), (2), or (6) of title 23 but for this section, the amounts remain available until the end of the 3d fiscal year following the fiscal year for which the amounts are authorized to be appropriated.

(2) Amounts withheld under this section from apportionment to a State after September 30, 1995, are not available for apportionment to the State.

(d) APPORTIONMENT AFTER COMPLIANCE.—(1) If, before the last day of the period for which amounts withheld under this section from apportionment are to remain available for apportionment to a State under subsection (c)(1) of this section, the State substantially complies with all of the requirements of section 31311(a) of this title for a period of 365 days, the Secretary, on the day following the last day of that period, shall apportion to the State the withheld amounts remaining available for apportionment to that State.

(2) Amounts apportioned under paragraph (1) of this subsection remain available for expenditure until the end of the 3d fiscal year following the fiscal year in which the amounts are apportioned. Amounts not obligated at the end of that

period lapse or, for amounts apportioned under section 104(b)(5) of title 23, lapse and are available for projects under section 118(b) of title 23.

(e) LAPSE.—If, at the end of the period for which amounts withheld under this section from apportionment are available for apportionment to a State under subsection (c)(1) of this section, the State has not substantially complied with all of the requirements of section 31311(a) of this title for a 365-day period, the amounts lapse or, for amounts withheld from apportionment under section 104(b)(5) of title 23, the amounts lapse and are available for projects under section 118(b) of title 23.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1028.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31314(a)	49 App.:2710(a).	Oct. 27, 1986, Pub. L. 99–570, §12011, 100 Stat. 3207–183.
31314(b)	49 App.:2710(b).	
31314(c)	49 App.:2710(c)(1).	
31314(d)	49 App.:2710(c)(2), (3).	
31314(e)	49 App.:2710(c)(4).	

In this section, the word ''amounts'' is substituted for ''funds'' and ''sums'' for consistency in the revised title.

In subsection (e), the words ''by the Secretary'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31311 of this title.

§ 31315. Waiver authority

After notice and an opportunity for comment, the Secretary of Transportation may waive any part of this chapter or a regulation prescribed under this chapter as it applies to a class of individuals or commercial motor vehicles if the Secretary decides the waiver is not contrary to the public interest and does not diminish the safe operation of commercial motor vehicles. A waiver under this section shall be published in the Federal Register with reasons for the waiver.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1029.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31315	49 App.:2711.	Oct. 27, 1986, Pub. L. 99–570, §12013, 100 Stat. 3207–186.

The words ''Notwithstanding any other provision of this chapter'' are omitted as surplus.

§ 31316. Limitation on statutory construction

This chapter does not affect the authority of the Secretary of Transportation to regulate commercial motor vehicle safety involving motor vehicles with a gross vehicle weight rating of less than 26,001 pounds or a lesser gross vehicle weight rating the Secretary decides is appropriate under section 31301(4)(A) of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1029.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31316	49 App.:2714.	Oct. 27, 1986, Pub. L. 99–570, §12017, 100 Stat. 3207–187.

The words ''This chapter does not affect'' are substituted for ''Nothing in this chapter shall be construed to diminish, limit, or otherwise affect'' to eliminate unnecessary words.

§ 31317. Procedure for prescribing regulations

Regulations prescribed by the Secretary of Transportation to carry out this chapter (except section 31307) shall be prescribed under section 553 of title 5 without regard to sections 556 and 557 of title 5.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1029.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31317	49 App.:2715.	Oct. 27, 1986, Pub. L. 99–570, §12018, 100 Stat. 3207–187.

The text of 49 App.:2715(a) is omitted as surplus because of 49:322(a). The words ''(except section 31307)'' are added because the source provisions restated in this section do not apply to the source provisions restated in section 31307 of the revised title.

CHAPTER 315—MOTOR CARRIER SAFETY

Sec.
31501. Definitions.
31502. Requirements for qualifications, hours of service, safety, and equipment standards.
31503. Research, investigation, and testing.
31504. Identification of motor vehicles.

HISTORICAL AND REVISION NOTES

Chapter 315 is a restatement of existing chapter 31 of title 49, United States Code, that is redesignated as chapter 315 by section 1(c) of the bill.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 104, 302, 501 of this title.

§ 31501. Definitions

In this chapter—

(1) ''migrant worker'' means an individual going to or from employment in agriculture as provided under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)) or section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)).

(2) ''motor carrier'', ''motor common carrier'', ''motor private carrier'', ''motor vehicle'', and ''United States'' have the same meanings given those terms in section 13102 of this title.

(3) ''motor carrier of migrant workers''—

(A) means a person (except a motor common carrier) providing transportation referred to in section 13501 of this title by a motor vehicle (except a passenger automobile or station wagon) for at least 3 migrant workers at a time to or from their employment; but

(B) does not include a migrant worker providing transportation for migrant workers and their immediate families.

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2438, § 3101; renumbered § 31501 and amended Pub. L. 103–272, § 1(c), (e), July 5, 1994, 108 Stat. 745, 1029; Pub. L. 103–429, § 6(26), Oct. 31, 1994, 108 Stat. 4380; Pub. L. 104–88, title III, § 308(k)(1), (2), Dec. 29, 1995, 109 Stat. 947, 948.)

HISTORICAL AND REVISION NOTES
PUB. L. 97–449

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3101(1)	49:303(a)(23).	Feb. 4, 1887, ch. 104, 24 Stat. 397, § 203(a)(22), (23); added Aug. 3, 1956, ch. 905, § 1, 70 Stat. 958.
3101(2)	(no source).	
3101(3)	49:303(a)(22).	

In clause (1), the words ''going to or from'' are substituted for ''proceeding to or returning from'' for clarity.

Clause (2) is included to ensure that the identical definitions that are relevant are used without repeating them. The source provisions for the quoted definitions are found in the revision notes for section 10102 of the revised title.

In clause (3), the words ''including any 'contract common carrier by motor vehicle' '' are omitted as covered by the definition of ''motor carrier''. The words ''referred to in section 10521(a) of this title'' are substituted for ''in interstate or foreign commerce'' for clarity and consistency in the revised title. The word ''except'' is substituted for ''but not including'' for clarity. The words ''at least'' are substituted for ''or more'', and the words ''but the term does not include'' are substituted for ''except'', for consistency.

PUB. L. 103–429

This amends 49:31501(1) to correct an erroneous cross-reference.

AMENDMENTS

1995—Par. (2). Pub. L. 104–88, § 308(k)(1), substituted ''13102'' for ''10102''.

Par. (3)(A). Pub. L. 104–88, § 308(k)(2), substituted ''13501'' for ''10521(a)''.

1994—Pub. L. 103–272 renumbered section 3101 of this title as this section and amended it generally, restating it without substantive change.

Par. (1). Pub. L. 103–429 substituted ''section 3(f)'' for ''section 203(f)''.

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 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 501 of this title.

§ 31502. Requirements for qualifications, hours of service, safety, and equipment standards

(a) APPLICATION.—This section applies to transportation—

(1) described in sections 13501 and 13502 of this title; and

(2) to the extent the transportation is in the United States and is between places in a foreign country, or between a place in a foreign country and a place in another foreign country.

(b) MOTOR CARRIER AND PRIVATE MOTOR CARRIER REQUIREMENTS.—The Secretary of Transportation may prescribe requirements for—

(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and

(2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation.

(c) MIGRANT WORKER MOTOR CARRIER REQUIREMENTS.—The Secretary may prescribe requirements for the comfort of passengers, qualifications and maximum hours of service of operators, and safety of operation and equipment of a motor carrier of migrant workers. The requirements only apply to a carrier transporting a migrant worker—

(1) at least 75 miles; and

(2) across the boundary of a State, territory, or possession of the United States.

(d) CONSIDERATIONS.—Before prescribing or revising any requirement under this section, the Secretary shall consider the costs and benefits of the requirement.

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2438, § 3102; Pub. L. 98–554, title II, § 206(h), Oct. 30, 1984, 98 Stat. 2835; renumbered § 31502 and amended Pub. L. 103–272, § 1(c), (e), July 5, 1994, 108 Stat. 745, 1029; Pub. L. 104–88, title III, § 308(k)(3), Dec. 29, 1995, 109 Stat. 948.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3102(a)	(no source).	
3102(b)(1)	49:304(a)(1)–(2) (related to qualifications, hours of service, and safety).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(1)–(2) (related to qualifications, hours of service, and safety), (3) (1st sentence); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
3102(b)(2)	49:304(a)(3) (1st sentence).	
	49:1655(e)(6)(C).	Oct. 15, 1966, Pub. L. 89–670, § 6(e)(6)(C), 80 Stat. 939.
3102(c)	49:304(a)(3a) (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3a) (1st sentence); added Aug. 3, 1956, ch. 905, § 2, 70 Stat. 958.
	49:1655(e)(6)(C).	

Throughout the chapter, the words ''Secretary of Transportation'' are substituted for ''Interstate Commerce Commission'' because 49:1655(e)(6)(B)–(D) transferred the authority of the Interstate Commerce Commission under the provisions restated in this chapter to the Secretary of Transportation.

Subsection (a) is included to maintain the jurisdictional scope of the source provisions from which subsections (b) and (c) of the revised section are taken. Subsections (b) and (c) are based on 49:304 which, as part of 49:ch. 8, is now restated as subchapter II of chapter 105 of the revised title. In addition, 49:303(a)(11) (last sentence) extended the jurisdictional scope of 49:304 as provided in subsection (a) of the revised section.

In subsection (b), before clause (1), the words ''and to that end'' are omitted as surplus. The word ''prescribe'' is substituted for ''establish'' for consistency. The word ''reasonable'' is omitted as surplus.

In subsection (b)(1), the words ''as provided in this chapter'' are omitted as unnecessary because of the restatement. The term ''motor carrier'' is substituted for ''common carriers by motor vehicle'' and ''contract carriers by motor vehicle'' because they are inclusive.

In subsection (b)(2), the words ''when needed'' are substituted for ''if need therefor is found'' to eliminate unnecessary words.

In subsection (c), the word ''prescribe'' is substituted for ''establish'' for consistency. The word ''reasonable'' is omitted as surplus. The words ''for a total distance of'' are omitted as unnecessary because of the restatement. The words ''at least'' are substituted for ''more than'' for consistency. The word ''line'' is omitted as surplus. The words ''possession of the United States'' are added for consistency in the revised title. The words ''a foreign country'' and ''the District of Columbia'' are omitted as unnecessary because a carrier crossing the boundary of a foreign country or the District of Columbia into or from the United States would necessarily cross the boundary of a State and be covered by the provision related to a State.

AMENDMENTS

1995—Subsec. (a)(1). Pub. L. 104–88 substituted ''13501 and 13502'' for ''10521 and 10522''.

1994—Pub. L. 103–272 renumbered section 3102 of this title as this section and amended it generally, restating it without substantive change.

1984—Subsec. (d). Pub. L. 98–554 added subsec. (d).

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.

SAVINGS PROVISION

Pub. L. 100–690, title IX, § 9102(c), Nov. 18, 1988, 102 Stat. 4529, provided that: ''The amendment made by subsection (a) [amending section 2505 of former Title 49, Transportation] shall not be construed as having any effect on the enactment of subsection (d) of section 3102 [now 31502] of title 49, United States Code, which subsection (d) was added to such section by section 206(h) of the Motor Carrier Safety Act of 1984 [Pub. L. 98–554] on October 30, 1984.''

EXEMPTIONS FROM REQUIREMENTS RELATING TO COMMERCIAL MOTOR VEHICLES AND THEIR OPERATORS

For provisions relating to exemptions from regulations prescribed under this section as to maximum driving and on-duty time for drivers used by motor carriers, see section 345 of Pub. L. 104–59, set out as a note under section 31136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 501, 507, 521, 526, 31136, 31504 of this title.

§ 31503. Research, investigation, and testing

(a) GENERAL AUTHORITY.—The Secretary of Transportation may investigate and report on the need for regulation by the United States Government of sizes, weight, and combinations of motor vehicles and qualifications and maximum hours of service of employees of a motor carrier subject to subchapter I of chapter 135 of this title and a motor private carrier. The Secretary shall use the services of each department, agency, or instrumentality of the Government and each organization of motor carriers having special knowledge of a matter being investigated.

(b) USE OF SERVICES.—In carrying out this chapter, the Secretary may use the services of a department, agency, or instrumentality of the Government having special knowledge about safety, to conduct scientific and technical research, investigation, and testing when necessary to promote safety of operation and equipment of motor vehicles. The Secretary may reimburse the department, agency, or instrumentality for the services provided.

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2439, § 3103; renumbered § 31503 and amended Pub. L. 103–272, § 1(c), (e), July 5, 1994, 108 Stat. 745, 1030; Pub. L. 104–88, title III, § 308(k)(4), Dec. 29, 1995, 109 Stat. 948.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3103(a)	49:325.	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 226; added Aug. 9, 1935, ch. 498, 49 Stat. 566; Sept. 18, 1940, ch. 722, § 26(b), 54 Stat. 929.
	49:1655(e)(6)(B).	Oct. 15, 1966, Pub. L. 89–670, § 6(e)(6)(B), (C), 80 Stat. 939.
3103(b)	49:304(a)(5).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(5); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:1655(e)(6)(C).	

In subsection (a), the words ''subject to subchapter II of chapter 105 of this title'' are added for clarity. The word ''services'' is substituted for ''assistance'' for consistency. The words ''department, agency, or instrumentality of the United States Government'' are substituted for ''departments or bureaus of the Government'' for consistency.

In subsection (b), the words ''In carrying out this chapter'' are substituted for ''For the purpose of carrying out the provisions pertaining to safety'' to eliminate unnecessary words. The words ''department . . . or instrumentality'' are added for consistency. The word ''reimburse'' is substituted for ''transfer . . . such funds'' for consistency. The words ''as may be necessary and available to make this provision effective'' are omitted as unnecessary because of the restatement.

AMENDMENTS

1995—Subsec. (a). Pub. L. 104–88 substituted ''subchapter I of chapter 135'' for ''subchapter II of chapter 105''.

1994—Pub. L. 103–272 renumbered section 3103 of this title as this section and amended it generally, restating it without substantive change.

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.

§ 31504. Identification of motor vehicles

(a) GENERAL AUTHORITY.—The Secretary of Transportation may—

(1) issue and require the display of an identification plate on a motor vehicle used in transportation provided by a motor private carrier and a motor carrier of migrant workers subject to section 31502(c) of this title, except a motor contract carrier; and

(2) require each of those motor private carriers and motor carriers of migrant workers to pay the reasonable cost of the plate.

(b) LIMITATION.—A motor private carrier or a motor carrier of migrant workers may use an identification plate only as authorized by the Secretary.

(Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2439, § 3104; renumbered § 31504 and amended Pub. L. 103–272, § 1(c), (e), July 5, 1994, 108 Stat. 745, 1030.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3104(a)	49:304(a)(3) (last sentence) (related to ''Sec. 324'').	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to ''Sec. 224''); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to ''Sec. 324'').	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to ''Sec. 224''); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.
	49:1655(e)(6)(D) (related to ''Sec. 324'').	Oct. 15, 1966, Pub. L. 89–670, §6(e)(6)(D) (related to ''Sec. 224''), 80 Stat. 940.
3104(b)	49:304(a)(3) (last sentence) (related to ''Sec. 324''). 49:304(a)(3a) (last sentence) (related to ''Sec. 324''). 49:1655(e)(6)(D) (related to ''Sec. 324'').	

The section is included to reflect the text of former 49:324 (related to motor private carriers and motor carriers of migrant workers) which is incorporated in the revised title by cross-reference.

AMENDMENTS

1994—Pub. L. 103–272 renumbered section 3104 of this title as this section and amended it generally, restating it without substantive change.

CHAPTER 317—PARTICIPATION IN INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT

Sec.
31701. Definitions.
31702. Working group.
31703. Grants.
31704. Vehicle registration.
31705. Fuel use tax.
31706. Enforcement.
31707. Limitations on statutory construction.
31708. Authorization of appropriations.

§ 31701. Definitions

In this chapter—

(1) ''commercial motor vehicle'', with respect to—

(A) the International Registration Plan, has the same meaning given the term ''apportionable vehicle'' under the Plan; and

(B) the International Fuel Tax Agreement, has the same meaning given the term ''qualified motor vehicle'' under the Agreement.

(2) ''fuel use tax'' means a tax imposed on or measured by the consumption of fuel in a motor vehicle.

(3) ''International Fuel Tax Agreement'' means the interstate agreement on collecting and distributing fuel use taxes paid by motor carriers, developed under the auspices of the National Governors' Association.

(4) ''International Registration Plan'' means the interstate agreement on apportioning vehicle registration fees paid by motor carriers, developed by the American Association of Motor Vehicle Administrators.

(5) ''Regional Fuel Tax Agreement'' means the interstate agreement on collecting and distributing fuel use taxes paid by motor carriers in the States of Maine, Vermont, and New Hampshire.

(6) ''State'' means the 48 contiguous States and the District of Columbia.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1031.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31701	49:11506 (note).	Dec. 18, 1991, Pub. L. 102–240, §4008(k), 105 Stat. 2155.

§ 31702. Working group

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a working group of State and local government officials, including representatives of the National Governors' Association, the American Association of Motor Vehicle Administrators, the National Conference of State Legislatures, the Federation of Tax Administrators, and the Board of Directors for the International Fuel Tax Agreement, and a representative of the Regional Fuel Tax Agreement.

(b) PURPOSES.—The purposes of the working group are—

(1) to propose procedures to resolve disputes among States participating in the International Registration Plan and among States participating in the International Fuel Tax Agreement, including designating the Secretary or any other person to resolve the disputes; and

(2) to provide technical assistance to States participating or seeking to participate in the Plan or Agreement.

(c) CONSULTATION REQUIREMENT.—In carrying out subsection (b) of this section, the working group shall consult with members of the motor carrier industry.

(d) REPORT.—(1) Not later than December 18, 1993, the working group shall submit a report to—

(A) the Secretary;

(B) the Committee on Commerce, Science, and Transportation of the Senate;

(C) the Committee on Public Works and Transportation of the House of Representatives;

(D) the Committee on the Judiciary of the House of Representatives;

(E) the States participating in the International Registration Plan; and

(F) the States participating in the International Fuel Tax Agreement.

(2) The report shall contain a detailed statement of the working group's findings and conclusions and its joint recommendations about the matters referred to in subsection (b) of this section. After submitting the report, the working group periodically may review and modify the findings and conclusions and the joint recommendations as appropriate and submit a report containing the modifications to the Secretary and the committees specified in paragraph (1) of this subsection.

(e) RELATIONSHIP TO OTHER LAWS.—The Federal Advisory Committee Act (5 App. U.S.C.) does not apply to the working group.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1031.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31702	49:11506 (note).	Dec. 18, 1991, Pub. L. 102–240, § 4008(a)–(d), 105 Stat. 2153.

In subsection (a), the words ''Not later than 180 days after December 18, 1991'' are omitted as obsolete. The word ''comprised'' is omitted as surplus.

In subsection (b)(1), the word ''Secretary'' is substituted for ''Department of Transportation'' for consistency in the revised title.

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (e), 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.

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31708 of this title.

§ 31703. Grants

(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants to States and appropriate persons to facilitate participation in the International Registration Plan and the International Fuel Tax Agreement and to make administrative improvements in any other base State fuel use tax agreement in existence as of January 1, 1991. A grant may include amounts for technical assistance, personnel training, travel costs, and technology and equipment associated with the participation.

(b) CONTRACTUAL OBLIGATION.—Approval by the Secretary of a grant with amounts made available under this section is a contractual obligation of the United States Government for payment of the Government's share of the grant.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1032.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31703	49:11506 (note).	Dec. 18, 1991, Pub. L. 102–240, § 4008(e), 105 Stat. 2154.

In subsection (b), the words ''Notwithstanding any other provision of law'' are omitted as unnecessary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31708 of this title.

§ 31704. Vehicle registration

After September 30, 1996, a State that is not participating in the International Registration Plan may not establish, maintain, or enforce a commercial motor vehicle registration law, regulation, or agreement that limits the operation in that State of a commercial motor vehicle that is not registered under the laws of the State, if the vehicle is registered under the laws of a State participating in the Plan.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1032.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31704	49:11506 (note).	Dec. 18, 1991, Pub. L. 102–240, § 4008(f), 105 Stat. 2154.

The words ''a State that is not participating in the International Registration Plan may not'' are substituted for ''no State (other than a State which is participating in the International Registration Plan) shall'' for consistency in the revised title and to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31706, 31707 of this title.

§ 31705. Fuel use tax

(a) REPORTING REQUIREMENTS.—After September 30, 1996, a State may establish, maintain, or enforce a law or regulation that has a fuel use tax reporting requirement (including any tax reporting form) only if the requirement conforms with the International Fuel Tax Agreement.

(b) PAYMENT.—After September 30, 1996, a State may establish, maintain, or enforce a law or regulation that provides for the payment of a fuel use tax only if the law or regulation conforms with the International Fuel Tax Agreement as it applies to collection of a fuel use tax by a single base State and proportional sharing of fuel use taxes charged among the States where a commercial motor vehicle is operated.

(c) LIMITATION.—If the International Fuel Tax Agreement is amended, a State not participating in the Agreement when the amendment is made is not subject to the conformity requirements of subsections (a) and (b) of this section in regard to the amendment until after a reasonable time, but not earlier than the expiration of—

(1) the 365-day period beginning on the first day that States participating in the Agreement are required to comply with the amendment; or

(2) the 365-day period beginning on the day the relevant office of the State receives written notice of the amendment from the Secretary of Transportation.

(d) NONAPPLICATION.—This section does not apply to a State that was participating in the Regional Fuel Tax Agreement on January 1, 1991, and that continues to participate in that Agreement after that date.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1032.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31705	49:11506 (note).	Dec. 18, 1991, Pub. L. 102–240, § 4008(g), 105 Stat. 2154.

In subsection (b), the words ''as it applies to'' are substituted for ''with respect to'' for clarity.

In subsection (c), before clause (1), the words ''a State not participating in the Agreement when the amendment is made is not subject to the conformity requirements of subsections (a) and (b) of this section in re-

gard to the amendment'' are substituted for ''conformity by a State that is not participating in such Agreement when such amendment is made may not be required with respect to such amendment'' for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31706, 31707 of this title.

§ 31706. Enforcement

(a) CIVIL ACTIONS.—On request of the Secretary of Transportation, the Attorney General may bring a civil action in a court of competent jurisdiction to enforce compliance with sections 31704 and 31705 of this title.

(b) VENUE.—An action under this section may be brought only in the State in which an order is required to enforce compliance.

(c) RELIEF.—Subject to section 1341 of title 28, the court, on a proper showing—

(1) shall issue a temporary restraining order or a preliminary or permanent injunction; and

(2) may require by the injunction that the State or any person comply with sections 31704 and 31705 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1033.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31706	49:11506 (note).	Dec. 18, 1991, Pub. L. 102–240, § 4008(h), 105 Stat. 2155.

In subsection (a), the words ''bring a civil action . . . to enforce compliance'' are substituted for ''commence . . . a civil action for such injunctive relief as may be appropriate to ensure compliance'' for consistency in the revised title and to eliminate unnecessary words.

In subsection (b), the words ''an order is required to enforce compliance'' are substituted for ''relief is required to ensure such compliance'' for consistency in the revised title.

§ 31707. Limitations on statutory construction

Sections 31704 and 31705 of this title do not limit the amount of money a State may charge for registration of a commercial motor vehicle or the amount of any fuel use tax a State may impose.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1033.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31707	49:11506 (note).	Dec. 18, 1991, Pub. L. 102–240, § 4008(i), 105 Stat. 2155.

§ 31708. Authorization of appropriations

(a) GENERAL.—From amounts made available under section 31104 of this title, the Secretary of Transportation shall provide the following amounts for each of the fiscal years ending September 30, 1993-1997:

(1) $1,000,000 for activities of the working group under section 31702 of this title.

(2) $5,000,000 for grants under section 31703 of this title.

(b) AVAILABILITY OF AMOUNTS.—Amounts appropriated under this section remain available until expended.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1033.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
31708	49:11506 (note).	Dec. 18, 1991, Pub. L. 102–240, § 4008(j), 105 Stat. 2155.

In subsection (a), the text of section 4008(j) (1st and 2d sentences) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2155) is omitted as obsolete.

PART C—INFORMATION, STANDARDS, AND REQUIREMENTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 15 section 2512; title 18 sections 511, 2721.

CHAPTER 321—GENERAL

Sec.
32101. Definitions.
32102. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 18 section 2721.

§ 32101. Definitions

In this part (except chapter 329 and except as provided in section 33101)—

(1) ''bumper standard'' means a minimum performance standard that substantially reduces—

(A) the damage to the front or rear end of a passenger motor vehicle from a low-speed collision (including a collision with a fixed barrier) or from towing the vehicle; or

(B) the cost of repairing the damage.

(2) ''insurer'' means a person in the business of issuing, or reinsuring any part of, a passenger motor vehicle insurance policy.

(3) ''interstate commerce'' means commerce between a place in a State and—

(A) a place in another State; or

(B) another place in the same State through another State.

(4) ''make'', when describing a passenger motor vehicle, means the trade name of the manufacturer of the vehicle.

(5) ''manufacturer'' means a person—

(A) manufacturing or assembling passenger motor vehicles or passenger motor vehicle equipment; or

(B) importing motor vehicles or motor vehicle equipment for resale.

(6) ''model'', when describing a passenger motor vehicle, means a category of passenger motor vehicles based on the size, style, and type of a make of vehicle.

(7) ''motor vehicle'' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

(8) ''motor vehicle accident'' means an accident resulting from the maintenance or operation of a passenger motor vehicle or passenger motor vehicle equipment.

(9) ''multipurpose passenger vehicle'' means a passenger motor vehicle constructed on a

truck chassis or with special features for occasional off-road operation.

(10) ''passenger motor vehicle'' means a motor vehicle with motive power designed to carry not more than 12 individuals, but does not include—

(A) a motorcycle; or

(B) a truck not designed primarily to carry its operator or passengers.

(11) ''passenger motor vehicle equipment'' means—

(A) a system, part, or component of a passenger motor vehicle as originally made;

(B) a similar part or component made or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a passenger motor vehicle; or

(C) a device made or sold for use in towing a passenger motor vehicle.

(12) ''State'' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(13) ''United States district court'' means a district court of the United States, a United States court for Guam, the Virgin Islands, and American Samoa, and the district court for the Northern Mariana Islands.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1034; Pub. L. 103–429, § 6(27), Oct. 31, 1994, 108 Stat. 4380.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32101(1)	15:1901(5), (6) (words before semicolon), (11).	Oct. 20, 1972, Pub. L. 92–513, § 2(1)–(6) (words before semicolon), (7)–(12), (15)–(18), 86 Stat. 947, 948; Dec. 22, 1975, Pub. L. 94–163, § 301, 89 Stat. 901; Oct. 10, 1980, Pub. L. 96–425, § 8(a)(2), 94 Stat. 1828; Oct. 25, 1984, Pub. L. 98–547, § 101(b), 98 Stat. 2767.
32101(2)	15:1901(12).	
32101(3)	15:1901(17).	
32101(4)	15:1901(8).	
32101(5)	15:1901(7).	
32101(6)	15:1901(9).	
32101(7)	15:1901(15).	
32101(8)	15:1901(10).	
32101(9)	15:1901(2).	
32101(10)	15:1901(1).	
32101(11)	15:1901(3), (4).	
32101(12)	15:1901(16).	
32101(13)	15:1901(18).	

In clause (1), the text of 15:1901(11) is omitted as surplus because the complete title of the Secretary of Transportation is used the first time the term appears in a section. The definition of ''property loss reduction standard'' is combined with the definition of ''bumper standard'' because the former term is used only in the definition of the latter term. Before subclause (A), the words ''the purpose of which is'' and ''eliminate'' are omitted as surplus. In subclauses (A) and (B), the words ''(or both)'' are omitted as surplus. In subclause (A), the word ''physical'' is omitted as surplus.

In clause (2), the words ''of passenger motor vehicles'' and ''engaged'' are omitted as surplus.

In clause (5)(A), the words ''manufacturing or assembling'' are substituted for ''engaged in the manufacturing or assembling of'' to eliminate unnecessary words.

In clause (8), the words ''maintenance or operation'' are substituted for ''operation, maintenance, or use'' to eliminate an unnecessary word.

In clauses (12) and (13), the words ''the Northern Mariana Islands'' are added because of section 502(a)(2) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as enacted by the Act of March 24, 1976 (Public Law 94–241, 90 Stat. 268), and as proclaimed to be in effect by the President on January 9, 1978 (Proc. No. 4534, Oct. 24, 1977, 42 F.R. 56593). The words ''the Canal Zone'' are omitted because of the Panama Canal Treaty of 1977.

In clause (12), the word ''means'' is substituted for ''includes'' as being more appropriate. The words ''a State of the United States'' are substituted for ''each of the several States'' for consistency in the revised title and with other titles of the United States Code.

In clause (13), the words ''of the Commonwealth of Puerto Rico'' are omitted as surplus because the district court of Puerto Rico is a district court of the United States under 28:119.

PUB. L. 103–429

This makes a conforming amendment to 49:32101 necessary because of the amendment to 49:32304(a)(11) made by section 6(29) of the bill and to clarify the restatement of 15:1901 by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1034).

AMENDMENTS

1994—Pub. L. 103–429 amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: ''In this part (except section 32304 and chapter 329)—''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32304 of this title; title 18 sections 511, 553.

§ 32102. Authorization of appropriations

The following amounts may be appropriated to the Secretary of Transportation for the National Highway Traffic Safety Administration to carry out this part:

(1) $6,731,430 for the fiscal year ending September 30, 1993.

(2) $6,987,224 for the fiscal year ending September 30, 1994.

(3) $7,252,739 for the fiscal year ending September 30, 1995.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1035.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32102	15:1392 (note).	Dec. 18, 1991, Pub. L. 102–240, § 2501(b), 105 Stat. 2081.

The reference to fiscal year 1992 is omitted as obsolete.

CHAPTER 323—CONSUMER INFORMATION

Sec.
32301. Definitions.
32302. Passenger motor vehicle information.
32303. Insurance information.
32304. Passenger motor vehicle country of origin labeling.
32305. Information and assistance from other departments, agencies, and instrumentalities.
32306. Personnel.

Sec.
32307. Investigative powers.
32308. General prohibitions, civil penalty, and enforcement.
32309. Civil penalty for labeling violations.

AMENDMENTS

1994—Pub. L. 103–429, §6(28), Oct. 31, 1994, 108 Stat. 4380, substituted ''Civil'' for ''Criminal'' in item 32309.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 18 section 2721.

§ 32301. Definitions

In this chapter—

(1) ''crashworthiness'' means the protection a passenger motor vehicle gives its passengers against personal injury or death from a motor vehicle accident.

(2) ''damage susceptibility'' means the susceptibility of a passenger motor vehicle to damage in a motor vehicle accident.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1035.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32301	15:1901(13), (14).	Oct. 20, 1972, Pub. L. 92–513, §2(13), (14), 86 Stat. 948; Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 901; Oct. 10, 1980, Pub. L. 96–425, §8(a)(2), 94 Stat. 1828; Oct. 25, 1984, Pub. L. 98–547, §101(b), 98 Stat. 2767.

§ 32302. Passenger motor vehicle information

(a) INFORMATION PROGRAM.—The Secretary of Transportation shall maintain a program for developing the following information on passenger motor vehicles:

(1) damage susceptibility.

(2) crashworthiness.

(3) the degree of difficulty of diagnosis and repair of damage to, or failure of, mechanical and electrical systems.

(4) vehicle operating costs dependent on the characteristics referred to in clauses (1)–(3) of this subsection, including insurance information obtained under section 32303 of this title.

(b) MOTOR VEHICLE INFORMATION.—To assist a consumer in buying a passenger motor vehicle, the Secretary shall provide to the public information developed under subsection (a) of this section. The information shall be in a simple and understandable form that allows comparison of the characteristics referred to in subsection (a)(1)–(3) of this section among the makes and models of passenger motor vehicles. The Secretary may require passenger motor vehicle dealers to distribute the information to prospective buyers.

(c) INSURANCE COST INFORMATION.—The Secretary shall prescribe regulations that require passenger motor vehicle dealers to distribute to prospective buyers information the Secretary develops and provides to the dealers that compares insurance costs for different makes and models of passenger motor vehicles based on damage susceptibility and crashworthiness.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1035.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32302(a)	15:1941(c) (19th–60th words). 15:1941(d) (1st–13th words).	Oct. 20, 1972, Pub. L. 92–513, §201(c), (e), 86 Stat. 956. Oct. 20, 1972, Pub. L. 92–513, §201(d), 86 Stat. 956; July 14, 1976, Pub. L. 94–364, §201, 90 Stat. 981.
32302(b)	15:1941(c) (1st–18th and 61st–last words), (d) (14th–last words).	
32302(c)	15:1941(e).	

In subsection (a), the words before clause (1) are substituted for ''The Secretary shall compile the information described in subsection (c) of this section'' and ''existing information and information to be developed relating to'' for clarity and to eliminate unnecessary words.

In subsection (b), the words ''After the study has been completed'' are omitted as executed. The words ''To assist a consumer in buying a passenger motor vehicle'' are substituted for ''so as to be of benefit in their passenger motor vehicle purchasing decisions'', and the words ''the Secretary shall provide to the public'' are substituted for ''the Secretary is authorized and directed to devise specific ways in which . . . can be communicated to consumers'' and ''furnish it to the public'', to eliminate unnecessary words. The word ''existing'' is omitted as obsolete.

In subsection (c), the words ''not later than February 1, 1975'' are omitted as executed. The words ''prescribe regulations'' are substituted for ''by rule establish'' for consistency in the revised title and because ''rule'' is synonymous with ''regulation''.

§ 32303. Insurance information

(a) GENERAL REPORTS AND INFORMATION REQUIREMENTS.—(1) In carrying out this chapter, the Secretary of Transportation may require an insurer, or a designated agent of the insurer, to make reports and provide the Secretary with information. The reports and information may include accident claim information by make, model, and model year of passenger motor vehicle about the kind and extent of—

(A) physical damage and repair costs; and

(B) personal injury.

(2) In deciding which reports and information are to be provided under this subsection, the Secretary shall—

(A) consider the cost of preparing and providing the reports and information;

(B) consider the extent to which the reports and information will contribute to carrying out this chapter; and

(C) consult with State authorities and public and private agencies the Secretary considers appropriate.

(3) To the extent possible, the Secretary shall obtain reports and information under this subsection on a voluntary basis.

(b) REQUESTED INFORMATION ON CRASHWORTHINESS, DAMAGE SUSCEPTIBILITY, AND REPAIR AND PERSONAL INJURY COST.—When requested by the Secretary, an insurer shall give the Secretary information—

(1) about the extent to which the insurance premiums charged by the insurer are affected by damage susceptibility, crashworthiness, and the cost of repair and personal injury, for each make and model of passenger motor vehicle; and

(2) available to the insurer about the effect of damage susceptibility, crashworthiness, and the cost of repair and personal injury for each make and model of passenger motor vehicle on the risk incurred by the insurer in insuring that make and model.

(c) DISCLOSURE.—In distributing information received under this section, the Secretary may disclose identifying information about a person that may be an insured, a claimant, a passenger, an owner, a witness, or an individual involved in a motor vehicle accident, only with the consent of the person.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1036.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32303(a)	15:1945(a)–(d), (g).	Oct. 20, 1972, Pub. L. 92–513, § 205, 86 Stat. 958.
32303(b)	15:1945(e).	
32303(c)	15:1945(f).	

In subsection (a), the words ''carrying out this chapter'' are substituted for ''to enable him to carry out the purposes of this subchapter'' to eliminate unnecessary words. The word ''provide'' is substituted for ''furnish'' for consistency.

In subsection (a)(1), before clause (A), the words ''the Secretary of Transportation may require . . . to . . . provide the Secretary with'' are substituted for ''shall, upon request by the Secretary . . . as the Secretary may reasonably require'' to eliminate unnecessary words. The text of 15:1945(g) is omitted as surplus because of 49:322(a). The word ''information'' is substituted for ''data'' for consistency in the section. In clause (A), the words ''repair costs'' are substituted for ''the cost of remedying the damage'' to eliminate unnecessary words.

In subsection (a)(2)(C), the words ''State authorities and public and private agencies'' are substituted for ''such State and insurance regulatory agencies and other agencies and associations, both public and private'' for consistency and to eliminate unnecessary words.

In subsection (b), before clause (1), the word ''information'' is substituted for ''a description of'' for consistency in the section. In clause (1), the word ''premiums'' is substituted for ''rates or premiums'' because it is inclusive. In clause (2), the words ''by the insurer'' are added for clarity.

In subsection (c), the words ''identifying information'' are substituted for ''the name of, or other identifying information'', and the words ''a witness, or an individual involved'' are substituted for ''a driver, an injured person, a witness, or otherwise involved'' to eliminate unnecessary words. The word ''accident'' is substituted for ''crash or collision'' for consistency in this section. The words ''so named or otherwise identified'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32302 of this title.

§ 32304. Passenger motor vehicle country of origin labeling

(a) DEFINITIONS.—In this section—

(1) ''allied supplier'' means a supplier of passenger motor vehicle equipment that is wholly owned by the manufacturer, or if a joint venture vehicle assembly arrangement, a supplier that is wholly owned by one member of the joint venture arrangement.

(2)(A) ''carline''—

(i) means a name given a group of passenger motor vehicles that has a degree of commonality in construction such as body and chassis;

(ii) does not consider a level of decor or opulence; and

(iii) except for light duty trucks, is not generally distinguished by characteristics such as roof line, number of doors, seats, or windows; and

(B) light duty trucks are different carlines than passenger motor vehicles.

(3) ''country of origin'', when referring to the origin of an engine or transmission, means the country from which the largest share of the dollar value added to an engine or transmission has originated—

(A) with the United States and Canada treated as separate countries; and

(B) the estimate of the percentage of the dollar value shall be based on the purchase price of direct materials, as received at individual engine or transmission plants, of engines of the same displacement and transmissions of the same transmission type.

(4) ''dealer'' means a person residing or located in the United States, including the District of Columbia or a territory or possession of the United States, and engaged in selling or distributing new passenger motor vehicles to the ultimate purchaser.

(5) ''final assembly place'' means the plant, factory, or other place at which a new passenger motor vehicle is produced or assembled by a manufacturer, and from which the vehicle is delivered to a dealer or importer with all component parts necessary for the mechanical operation of the vehicle included with the vehicle, whether or not the component parts are permanently installed in or on the vehicle.

(6) ''foreign content'' means passenger motor vehicle equipment that is not of United States/Canadian origin.

(7) ''manufacturer'' means a person—

(A) engaged in manufacturing or assembling new passenger motor vehicles;

(B) importing new passenger motor vehicles for resale; or

(C) acting for and under the control of such a manufacturer, assembler, or importer in connection with the distribution of new passenger motor vehicles.

(8) ''new passenger motor vehicle'' means a passenger motor vehicle for which a manufacturer, distributor, or dealer has never transferred the equitable or legal title to the vehicle to an ultimate purchaser.

(9) ''of United States/Canadian origin'', when referring to passenger motor vehicle equipment, means—

(A) for an outside supplier, passenger motor vehicle equipment whose purchase price contains at least 70 percent value added in the United States and Canada; and

(B) for an allied supplier, that part of the individual passenger motor vehicle equipment whose purchase price the manufacturer determines remains after subtracting the total of the purchase prices of all mate-

rial of foreign content purchased from outside suppliers, with the determination of the United States/Canadian origin or of the foreign content from outside suppliers being consistent with subclause (A) of this clause.

(10) ''outside supplier'' means a supplier of passenger motor vehicle equipment to a manufacturer's allied supplier, or a person other than an allied supplier, who ships directly to the manufacturer's final assembly place.

(11) ''passenger motor vehicle'' has the same meaning given that term in section 32101(10) of this title, except that it includes any multipurpose vehicle or light duty truck when that vehicle or truck is rated at not more than 8,500 pounds gross vehicle weight.

(12) ''passenger motor vehicle equipment''—

(A) means a system, subassembly, or component received at the final vehicle assembly place for installation on, or attachment to, a passenger motor vehicle at the time of its first shipment by the manufacturer to a dealer for sale to an ultimate purchaser; but

(B) does not include minor parts (including nuts, bolts, clips, screws, pins, braces, and other attachment hardware) and other similar items the Secretary of Transportation may prescribe by regulation after consulting with manufacturers and labor.

(13) ''percentage (by value)'', when referring to passenger motor vehicle equipment of United States/Canadian origin, means the percentage remaining after subtracting the percentage (by value) of passenger motor vehicle equipment that is not of United States/Canadian origin that will be installed or included on those vehicles produced in a carline, from 100 percent—

(A) with value being expressed in terms of the purchase price; and

(B) for outside suppliers and allied suppliers, the value used is the purchase price of the equipment paid at the final assembly place.

(14) ''State'' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(15) ''value added in the United States and Canada'' means a percentage determined by subtracting the total purchase price of foreign content from the total purchase price, and dividing the remainder by the total purchase price, excluding costs incurred or profits made at the final assembly place and beyond (including advertising, assembly, labor, interest payments, and profits), with the following groupings being used:

(A) engines of same displacement produced at the same plant.

(B) transmissions of the same type produced at the same plant.

(b) MANUFACTURER REQUIREMENT.—(1) Each manufacturer of a new passenger motor vehicle manufactured after September 30, 1994, and distributed in commerce for sale in the United States, shall establish each year for each model year and cause to be attached in a prominent place on each of those vehicles, at least one label. The label shall contain the following information:

(A) the percentage (by value) of passenger motor vehicle equipment of United States/Canadian origin installed on vehicles in the carline to which that vehicle belongs, identified by the words ''U.S./Canadian content''.

(B) the final assembly place for that vehicle by city, State (where appropriate) and country.

(C) if at least 15 percent (by value) of equipment installed on passenger motor vehicles in a carline originated in any country other than the United States and Canada, the names of at least the 2 countries in which the greatest amount (by value) of that equipment originated and the percentage (by value) of the equipment originating in each country.

(D) the country of origin of the engine and the transmission for each vehicle.

(2) At the beginning of each model year, each manufacturer shall establish the percentages required for each carline to be indicated on the label under this subsection. Those percentages are applicable to that carline for the entire model year. A manufacturer may round those percentages to the nearest 5 percent.

(3) A manufacturer complying with the requirement of paragraph (1)(B) of this subsection satisfies the disclosure requirement of section 3(b) of the Automobile Information Disclosure Act (15 U.S.C. 1232(b)).

(c) DEALER REQUIREMENT.—Each dealer engaged in the sale or distribution of a new passenger motor vehicle manufactured after September 30, 1994, shall cause to be maintained on that vehicle the label required to be attached to that vehicle under subsection (b) of this section.

(d) FORM AND CONTENT OF LABEL.—The Secretary of Transportation shall prescribe by regulation the form and content of the label required under subsection (b) of this section and the manner and location in which the label is attached. The Secretary shall permit a manufacturer to comply with this section by allowing the manufacturer to disclose the information required under subsection (b)(1) on the label required by section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232), on the label required by section 32908 of this title, or on a separate label that is readily visible.

(e) REGULATIONS.—In consultation with the Secretaries of Commerce and the Treasury, the Secretary of Transportation shall prescribe regulations necessary to carry out this section, including regulations establishing a procedure to verify the label information required under subsection (b)(1) of this section. Those regulations shall provide the ultimate purchaser of a new passenger motor vehicle with the best and most understandable information possible about the foreign content and United States/Canadian origin of the equipment of the vehicles without imposing costly and unnecessary burdens on the manufacturers. The Secretary of Transportation shall prescribe the regulations promptly to provide adequate lead time for each manufacturer to comply with this section. The regulations shall include provisions applicable to outside suppliers and allied suppliers to require those suppliers to certify whether passenger motor ve-

hicle equipment provided by those suppliers is of United States origin, of United States/Canadian origin, or of foreign content and to provide other information the Secretary of Transportation decides is necessary to allow each manufacturer to comply reasonably with this section and to rely on that certification and information.

(f) PREEMPTION.—(1) When a label content requirement prescribed under this section is in effect, a State or a political subdivision of a State may not adopt or enforce a law or regulation related to the content of vehicles covered by a requirement under this section.

(2) A State or a political subdivision of a State may prescribe requirements related to the content of passenger motor vehicles obtained for its own use.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1036; Pub. L. 103–429, § 6(29), (30), Oct. 31, 1994, 108 Stat. 4380.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32304(a)	15:1950(f).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 210(b)–(d), (f), (g), added Oct. 6, 1992, Pub. L. 102–388, § 355, 106 Stat. 1556, 1557.
32304(b)(1), (2).	15:1950(b)(1) (less words between 1st and 2d commas), (2).	
32304(b)(3) ..	15:1950(b)(3).	
32304(c)	15:1950(b)(1) (words between 1st and 2d commas).	
32304(d)	15:1950(c).	
32304(e)	15:1950(d).	
32304(f)	15:1950(g).	

In this section, the words ''passenger motor vehicle'' and ''vehicle'' are substituted for ''automobile'' because the defined terms used in the operative provisions of the law being restated are ''passenger motor vehicle'' and ''new passenger motor vehicle''. The words ''final assembly place'' are substituted for ''final assembly point'' for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2)(A)(i), the word ''given'' is substituted for ''denoting'' for clarity. The words ''passenger motor'' are added for clarity and consistency in the revised section.

In section (a)(2)(A)(ii), the words ''decor or opulence'' are substituted for ''decor of opulence'' for clarity.

In subsection (a)(3), before subclause (A), the words ''from which the largest share of the dollar value added to . . . has originated'' are substituted for ''in which 50 percent or more of the dollar value added of . . . originated. If no country accounts for 50 percent or more of the dollar value, then the country of origin is the country from which the largest share of the value added originated'' for clarity and to eliminate unnecessary words. In subclause (A), the word ''with'' is substituted for ''For the purpose of determining the country of origin for engines and transmissions'' are omitted as unnecessary.

In subsection (a)(4), the word ''possession'' is added for clarity and consistency in the revised title and with other titles of the Code.

In subsection (a)(5), the words ''in such a condition'' are omitted as surplus.

In subsection (a)(6), the words ''United States/Canadian origin'' are substituted for ''U.S./Canadian origin'' for consistency with the defined term restated in the revised section. The word ''foreign'' is omitted as being included in ''foreign content''.

In subsection (a)(9), before subclause (A), the words ''originated in the United States and Canada'' and ''U.S./Canadian origin'' are omitted as unnecessary because of the defined term ''of United States/Canadian origin''. In subclause (A), the words ''passenger motor vehicle equipment whose purchase price contains'' are substituted for ''the purchase price of automotive equipment which contains'' for clarity. In subclause (B), the words ''that part of the individual passenger motor vehicle equipment whose purchase price the manufacturer determines remains after subtracting the total of the purchase price of all material of foreign content purchased from outside suppliers'' are substituted for ''the manufacturer shall determine the foreign content of any passenger motor vehicle equipment supplied by the allied supplier by adding up the purchase price of all foreign material purchased from outside suppliers that comprise the individual passenger motor vehicle equipment and subtracting such purchase price from the total purchase price of such equipment'' for clarity.

In subsection (a)(10), the word ''person'' is substituted for ''anyone'' for clarity and consistency in the revised title.

In subsection (a)(11), the words ''a motor vehicle with motive power, manufactured primarily for use on public streets, roads, and highways, and designed to carry not more than 12 individuals . . . not including . . . a motorcycle; or . . . a truck not designed primarily to carry its operator or passengers'' are substituted for ''has the meaning provided in section 1901(1) of this title'' for clarity.

In subsection (a)(13), before subclause (A), the words ''the percentage remaining after subtracting'' are substituted for ''the resulting percentage when . . . is subtracted'' for clarity.

In subsection (a)(15), before subclause (A), the words '' 'Value added' equals'' are omitted as unnecessary because of the restatement.

The text of 15:1950(f)(2) is omitted as unnecessary because of 1:1. The text of 15:1950(f)(8) is omitted because the complete title of the Secretary of Transportation is used the first time the term appears in a section.

In subsection (b)(1)(A), the words ''to which that vehicle belongs'' are added for clarity.

In subsection (b)(3), the text of 15:1950(b)(3) (1st sentence) is omitted as unnecessary because of the source provisions restated in this subsection.

Subsection (c) is substituted for ''and each dealer shall cause to be maintained'' for clarity and because of the restatement.

In subsection (e), the words ''passenger motor vehicle equipment'' are substituted for ''a component'' for clarity and for consistency with the defined term. The text of 15:1950(d) (last sentence) is omitted as unnecessary because of section 32308 of the revised title. The words ''foreign content'' are substituted for ''foreign'' for clarity and consistency with the defined term.

PUB. L. 103–429, § 6(29)

This amends 32304(a)(11) to clarify the restatement of 15:1950(f)(3) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1038).

PUB. L. 103–429, § 6(30)

This amends 49:32304(a)(14) to reflect the inclusion of the Northern Mariana Islands and the exclusion of the Canal Zone. The words ''the Northern Mariana Islands'' are added because of section 502(a)(2) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as enacted by the Act of March 24, 1976 (Public Law 94–241, 90 Stat. 268), and as proclaimed to be in effect by the President on January 9, 1978 (Proc. No. 4534, Oct. 24, 1977, 42 F.R. 56593). The words ''the Canal Zone'' are omitted because of the Panama Canal Treaty of 1977.

AMENDMENTS

1994—Subsec. (a)(11). Pub. L. 103–429, § 6(29), amended par. (11) generally. Prior to amendment, par. (11) read

as follows: ''‘passenger motor vehicle' means a motor vehicle with motive power, manufactured primarily for use on public streets, roads, and highways, and designed to carry not more than 12 individuals—

''(A) including a multipurpose vehicle or light duty truck when the vehicle or truck is rated at not more than 8,500 pounds gross vehicle weight; but

''(B) not including—

''(i) a motorcycle;

''(ii) a truck not designed primarily to carry its operator or passengers; or

''(iii) a vehicle operated only on a rail line.''

Subsec. (a)(14). Pub. L. 103–429, §6(30), inserted ''the Northern Mariana Islands,'' after ''Puerto Rico,'' and struck out ''the Canal Zone,'' after ''Guam,''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32309 of this title.

§ 32305. Information and assistance from other departments, agencies, and instrumentalities

(a) AUTHORITY TO REQUEST.—The Secretary of Transportation may request information necessary to carry out this chapter from a department, agency, or instrumentality of the United States Government. The head of the department, agency, or instrumentality shall provide the information.

(b) DETAILING PERSONNEL.—The head of a department, agency, or instrumentality may detail, on a reimbursable basis, personnel to assist the Secretary in carrying out this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1040.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32305	15:1943.	Oct. 20, 1972, Pub. L. 92–513, §203, 86 Stat. 957.

In this section, the word ''independent'' is omitted as surplus.

In subsection (a), the words ''he deems'' and ''his functions under'' are omitted as surplus. The words ''head of the'' are added for consistency in the revised title and with other titles of the United States Code. The words ''cooperate with the Secretary and'' and ''to the Department of Transportation upon request made by the Secretary'' are omitted as surplus.

§ 32306. Personnel

(a) GENERAL AUTHORITY.—In carrying out this chapter, the Secretary of Transportation may—

(1) appoint and fix the pay of employees without regard to the provisions of title 5 governing appointment in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5; and

(2) make contracts with persons for research and preparation of reports.

(b) STATUS OF ADVISORY COMMITTEE MEMBERS.—A member of an advisory committee appointed under section 325 of this title to carry out this chapter is a special United States Government employee under chapter 11 of title 18.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1040.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32306(a)	15:1942 (1st, 2d sentences).	Oct. 20, 1972, Pub. L. 92–513, §202, 86 Stat. 956.
32306(b)	15:1942 (last sentence).	

In subsection (a), before clause (1), the words ''his functions under'' are omitted as surplus. In clause (1), the words ''as he deems necessary'' are omitted as surplus. The words ''chapter 51 and subchapter III of chapter 53 of title 5'' are substituted for ''the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates'' to eliminate unnecessary words. The text of 15:1942 (1st sentence cl. (2)) is omitted as surplus because of 49:323(b). The text of 15:1942 (1st sentence cl. (4), 2d sentence) is omitted as surplus because of 49:325.

REFERENCES IN TEXT

The provisions of title 5 governing appointment in the competitive service, referred to in subsec. (a)(1), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

§ 32307. Investigative powers

(a) GENERAL AUTHORITY.—In carrying out this chapter, the Secretary of Transportation may—

(1) inspect and copy records of any person at reasonable times;

(2) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(3) conduct hearings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(b) WITNESS FEES AND MILEAGE.—A witness summoned under subsection (a) of this section is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(c) CIVIL ACTIONS TO ENFORCE.—A civil action to enforce a subpena or order of the Secretary under subsection (a) of this section may be brought in the United States district court for the judicial district in which the proceeding by the Secretary is conducted. The court may punish a failure to obey an order of the court to comply with the subpena or order of the Secretary as a contempt of court.

(d) CONFIDENTIALITY OF INFORMATION.—Information obtained by the Secretary under this section related to a confidential matter referred to in section 1905 of title 18 may be disclosed only to another officer or employee of the United States Government for use in carrying out this chapter. This subsection does not authorize information to be withheld from a committee of Congress authorized to have the information.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1040.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32307(a)	15:1944(a)–(c).	Oct. 20, 1972, Pub. L. 92–513, §204, 86 Stat. 957.
32307(b)	15:1944(e).	
32307(c)	15:1944(d).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32307(d)	15:1944(f).	

In subsection (a), before clause (1), the words ''In carrying out this chapter'' are substituted for ''For the purpose of carrying out the provisions of this subchapter'', ''In order to carry out the provisions of this subchapter'', and ''relating to any function of the Secretary under this subchapter'' for consistency. The words ''or on the authorization of the Secretary, any officer or employee of the Department of Transportation'' and ''or his duly authorized agent'' are omitted as surplus because of 49:322(b). In clause (1), the words ''inspect and copy'' are substituted for ''have access to, and for the purposes of examination the right to copy'', and the word ''records'' is substituted for ''documentary evidence'' and ''materials and information'', for consistency and to eliminate unnecessary words. The words ''relevant to the study authorized by this subchapter'' are omitted as surplus. In clause (2), the word ''order'' is substituted for ''require, by general or special orders'' to eliminate unnecessary words. The words ''in such form as the Secretary may prescribe'' and ''shall be filed with the Secretary within such reasonable period as the Secretary may prescribe'' are omitted as surplus because of 49:322(a). In clause (3), the words ''sit and act at such times and places'' are omitted as being included in ''conduct hearings''.

In subsection (c), the words ''A civil action to enforce a subpena or order of the Secretary under subsection (a) of this section may be brought in the United States district court for the judicial district in which the proceeding by the Secretary is conducted'' are substituted for 15:1944(d) (words before semicolon) for consistency in the revised title and to eliminate unnecessary words.

In subsection (d), the words ''reported to or otherwise'' are omitted as surplus. The words ''or such officer or employee'' are omitted for consistency with subsection (a) of this section. The words ''related to a confidential matter referred to'' are substituted for ''contains or relates to a trade secret or other matter referred to'' to eliminate unnecessary words. The words ''a committee of Congress authorized to have the information'' are substituted for ''the duly authorized committees of the Congress'' for clarity.

§ 32308. General prohibitions, civil penalty, and enforcement

(a) PROHIBITIONS.—A person may not—

(1) fail to provide the Secretary of Transportation with information requested by the Secretary in carrying out this chapter; or

(2) fail to comply with applicable regulations prescribed by the Secretary in carrying out this chapter.

(b) CIVIL PENALTY.—(1) A person that violates subsection (a) of this section is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. Each failure to provide information or comply with a regulation in violation of subsection (a) is a separate violation. The maximum penalty under this subsection for a related series of violations is $400,000.

(2) The Secretary may compromise the amount of a civil penalty imposed under this section.

(3) In determining the amount of a penalty or compromise, the appropriateness of the penalty or compromise to the size of the business of the person charged and the gravity of the violation shall be considered.

(4) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(c) CIVIL ACTIONS TO ENFORCE.—(1) The Attorney General may bring a civil action in a United States district court to enjoin a violation of subsection (a) of this section.

(2) When practicable, the Secretary shall—

(A) notify a person against whom an action under this subsection is planned;

(B) give the person an opportunity to present that person's views; and

(C) give the person a reasonable opportunity to comply.

(3) The failure of the Secretary to comply with paragraph (2) of this subsection does not prevent a court from granting appropriate relief.

(d) VENUE AND SERVICE.—A civil action under this section may be brought in the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1041.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32308(a)	15:1946.	Oct. 20, 1972, Pub. L. 92–513, §§ 206–208, 86 Stat. 959.
32308(b)(1) ..	15:1948(a).	
32308(b)(2)–(4).	15:1948(b).	
32308(c)	15:1947 (1st–3d sentences).	
32308(d)	15:1947 (last sentence). 15:1948(c).	

In subsection (a)(1), the words ''data or'' are omitted as surplus.

In subsection (b)(1), the words ''Each failure to provide information or comply with a regulation'' are substituted for ''with respect to each failure or refusal to comply with a requirement thereunder'' for clarity.

In subsection (c), the words ''The Attorney General may bring a civil action'' are substituted for ''Upon petition by the Attorney General on behalf of the United States'' for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.) and to eliminate unnecessary words. The words ''for cause shown'' are omitted as surplus. The words ''and subject to the provisions of rule 65(a) and (b) of the Federal Rules of Civil Procedure'' are omitted as surplus because the rules apply in the absence of an exception from them.

Subsection (d) is substituted for 15:1947 (last sentence) and 1948(c) for clarity and consistency in this part by restating 15:1917(c)(3) and (4).

§ 32309. Civil penalty for labeling violations

(a) DEFINITIONS.—The definitions in section 32304 of this title apply to this section.

(b) PENALTIES.—A manufacturer of a passenger motor vehicle distributed in commerce for sale in the United States that willfully fails to attach the label required under section 32304 of this title to a new passenger motor vehicle that the manufacturer manufactures or imports, or a dealer that fails to maintain that label as required under section 32304, is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. Each failure to attach or maintain that label for each vehicle is a separate violation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1042; Pub. L. 103–429, § 6(31), Oct. 31, 1994, 108 Stat. 4380.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32309(a)	(no source).	
32309(b)	15:1950(e).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 210(e); added Oct. 6, 1992, Pub. L. 102–388, § 355, 106 Stat. 1557.

Subsection (a) is added to ensure that the definitions in 15:1950(f), restated in section 32304 of the revised title, apply to the source provision restated in this section.

In subsection (b), the words ''Each failure to attach or maintain that label'' are substituted for ''Such failure'' for clarity.

PUB. L. 103–429

This amends the catchline for 49:32309 to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1042).

AMENDMENTS

1994—Pub. L. 103–429 substituted ''Civil'' for ''Criminal'' in section catchline.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

CHAPTER 325—BUMPER STANDARDS

Sec.
32501. Purpose.
32502. Bumper standards.
32503. Judicial review of bumper standards.
32504. Certificates of compliance.
32505. Information and compliance requirements.
32506. Prohibited acts.
32507. Penalties and enforcement.
32508. Civil actions by owners of passenger motor vehicles.
32509. Information and assistance from other departments, agencies, and instrumentalities.
32510. Annual report.
32511. Relationship to other motor vehicle standards.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 18 section 2721.

§ 32501. Purpose

The purpose of this chapter is to reduce economic loss resulting from damage to passenger motor vehicles involved in motor vehicle accidents by providing for the maintenance and enforcement of bumper standards.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1042.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32501	15:1911.	Oct. 20, 1972, Pub. L. 92–513, § 101, 86 Stat. 948.

The words ''The Congress finds that it is necessary'' are omitted as surplus. The word ''maintenance'' is substituted for ''promulgation'' for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32510 of this title.

§ 32502. Bumper standards

(a) GENERAL REQUIREMENTS AND NONAPPLICATION.—The Secretary of Transportation shall prescribe by regulation bumper standards for passenger motor vehicles and may prescribe by regulation bumper standards for passenger motor vehicle equipment manufactured in, or imported into, the United States. A standard does not apply to a passenger motor vehicle or passenger motor vehicle equipment—

(1) intended only for export;

(2) labeled for export on the vehicle or equipment and the outside of any container of the vehicle or equipment; and

(3) exported.

(b) LIMITATIONS.—A standard under this section—

(1) may not conflict with a motor vehicle safety standard prescribed under chapter 301 of this title;

(2) may not specify a dollar amount for the cost of repairing damage to a passenger motor vehicle; and

(3) to the greatest practicable extent, may not preclude the attachment of a detachable hitch.

(c) EXEMPTIONS.—For good cause, the Secretary may exempt from any part of a standard—

(1) a multipurpose passenger vehicle; or

(2) a make, model, or class of a passenger motor vehicle manufactured for a special use, if the standard would interfere unreasonably with the special use of the vehicle.

(d) COST REDUCTION AND CONSIDERATIONS.—When prescribing a standard under this section, the Secretary shall design the standard to obtain the maximum feasible reduction of costs to the public, considering—

(1) the costs and benefits of carrying out the standard;

(2) the effect of the standard on insurance costs and legal fees and costs;

(3) savings in consumer time and inconvenience; and

(4) health and safety, including emission standards.

(e) PROCEDURES.—Section 553 of title 5 applies to a standard prescribed under this section. However, the Secretary shall give an interested person an opportunity to make oral and written presentations of information, views, and arguments. A transcript of each oral presentation shall be kept. Under conditions prescribed by the Secretary, the Secretary may conduct a hearing to resolve an issue of fact material to a standard.

(f) EFFECTIVE DATE.—The Secretary shall prescribe an effective date for a standard under this section. That date may not be earlier than the date the standard is prescribed nor later than 18 months after the date the standard is prescribed. However, the Secretary may prescribe a later date when the Secretary submits to Congress and publishes the reasons for the later date. A

standard only applies to a passenger motor vehicle or passenger motor vehicle equipment manufactured on or after the effective date.

(g) RESEARCH.—The Secretary shall conduct research necessary to carry out this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1042.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32502(a)	15:1912(a).	Oct. 20, 1972, Pub. L. 92–513, §§ 102, 104(d), 86 Stat. 949.
32502(b)(1) ..	15:1912(b)(2).	
32502(b)(2) ..	15:1901(6) (words after semicolon).	Oct. 20, 1972, Pub. L. 92–513, § 2(6) (words after semicolon), 86 Stat. 948; Dec. 22, 1975, Pub. L. 94–163, § 301, 89 Stat. 901; Oct. 10, 1980, Pub. L. 96–425, § 8(a)(2), 94 Stat. 1828; Oct. 25, 1984, Pub. L. 98–547, § 101(b), 98 Stat. 2767.
32502(b)(3) ..	15:1912(c)(2).	
32502(c)	15:1912(c)(1).	
32502(d)	15:1912(b)(1).	
32502(e)	15:1912(e).	
32502(f)	15:1912(d).	
32502(g)	15:1914(d).	

In subsection (a), before clause (1), the words ''Subject to subsections (b) through (e) of this section'' are omitted as surplus. The words ''shall prescribe by regulation'' are substituted for ''by rule . . . shall promulgate'' for clarity. The words ''may prescribe by regulation'' are substituted for ''by rule . . . may promulgate'' for consistency.

In subsection (c), before clause (1), the words ''In promulgating any bumper standard under this subchapter'' are omitted as surplus. The words ''from any part of a standard'' are substituted for ''partially or completely'' for clarity and consistency.

In subsection (d), before clause (1), the words ''to the public'' are substituted for ''to the public and to the consumer'' because they are inclusive. In clause (2), the word ''prospective'' is omitted as surplus.

In subsection (e), the words ''Section 553 of title 5 applies to a standard prescribed under this section'' are substituted for ''All rules establishing, amending, or revoking a bumper standard under this subchapter shall be issued pursuant to section 553 of title 5'', the words ''opportunity to make oral and written presentations of information, views, and arguments'' are substituted for ''opportunity for oral presentation of data, views, or arguments, and the opportunity to make written submissions'', the words ''Under conditions prescribed by the Secretary'' are substituted for ''in accordance with such conditions or limitations as he may make applicable thereto'', and the words ''material to a standard'' are substituted for ''material to the establishing, amending, or revoking of a bumper standard'', to eliminate unnecessary words.

In subsection (f), the words ''However, the Secretary may prescribe a later date when the Secretary submits'' are substituted for ''unless the Secretary presents'' for clarity. The word ''reasons'' is substituted for ''a detailed explanation of the reasons'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 32503, 32504, 32506, 32507, 32508, 32511 of this title.

§ 32503. Judicial review of bumper standards

(a) FILING AND VENUE.—A person that may be adversely affected by a standard prescribed under section 32502 of this title may apply for review of the standard by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 59 days after the standard is prescribed.

(b) NOTIFYING SECRETARY.—The clerk of the court shall send immediately a copy of the petition to the Secretary of Transportation. The Secretary shall file with the court a record of the proceeding in which the standard was prescribed.

(c) ADDITIONAL PROCEEDINGS.—(1) On request of the petitioner, the court may order the Secretary to receive additional evidence and evidence in rebuttal if the court is satisfied the additional evidence is material and there were reasonable grounds for not presenting the evidence in the proceeding before the Secretary.

(2) The Secretary may modify findings of fact or make new findings because of the additional evidence presented. The Secretary shall file a modified or new finding, a recommendation to modify or set aside a standard, and the additional evidence with the court.

(d) SUPREME COURT REVIEW AND ADDITIONAL REMEDIES.—A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28. A remedy under this section is in addition to any other remedies provided by law.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1043.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32503(a)	15:1913(a) (1st sentence), (c).	Oct. 20, 1972, Pub. L. 92–513, § 103, 86 Stat. 950.
32503(b)	15:1913(a) (2d, last sentences).	
32503(c)	15:1913(b).	
32503(d)	15:1913(d), (e).	

In subsection (a), the words ''may apply for'' are added for clarity. The text of 15:1913(c) is omitted because 5:ch. 7 applies unless otherwise stated.

In subsection (b), the words ''or his delegate'' and ''thereupon'' are omitted as surplus. The words ''in which the standard was prescribed'' are substituted for ''on which the Secretary based his rule, as provided in section 2112 of title 28'' to eliminate unnecessary words.

In subsection (c)(1), the words ''On request of the petitioner'' are substituted for ''If the petitioner applies to the court for leave to adduce'' to eliminate unnecessary words. The words ''the Secretary to receive'' are substituted for ''to be taken before the Secretary, and to be adduced in a hearing'' for clarity. The words ''in such manner and upon such terms and conditions as the court may deem proper'' are omitted as surplus.

In subsection (c)(2), the words ''with the court'' are substituted for ''with the return of'' for clarity.

In subsection (d), the words ''affirming or setting aside, in whole or in part, any such rule of the Secretary'' are omitted as surplus. The words ''may be reviewed only'' are substituted for ''shall be final, subject to review'' for clarity. The words ''and not in lieu of'' are omitted as surplus.

§ 32504. Certificates of compliance

Under regulations prescribed by the Secretary of Transportation, a manufacturer or distributor of a passenger motor vehicle or passenger motor vehicle equipment subject to a standard prescribed under section 32502 of this title shall give the distributor or dealer at the time of de-

livery a certificate that the vehicle or equipment complies with the standard.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1044.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32504	15:1915(c).	Oct. 20, 1972, Pub. L. 92–513, §105(c), 86 Stat. 952.

The words ''Under regulations prescribed by the Secretary of Transportation'' are substituted for 15:1915(c)(1) (last sentence) to eliminate unnecessary words. The text of 15:1915(c)(2) is omitted as surplus because this section only applies to a vehicle or equipment subject to a standard prescribed under section 32502 of the revised title, and a standard prescribed under that section does not apply to a vehicle or equipment intended only for export, labeled for export, and exported.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 32506, 32507 of this title.

§ 32505. Information and compliance requirements

(a) GENERAL AUTHORITY.—(1) To enable the Secretary of Transportation to decide whether a manufacturer of passenger motor vehicles or passenger motor vehicle equipment is complying with this chapter and standards prescribed under this chapter, the Secretary may require the manufacturer to—

(A) keep records;

(B) make reports;

(C) provide items and information, including vehicles and equipment for testing at a negotiated price not more than the manufacturer's cost; and

(D) allow an officer or employee designated by the Secretary to inspect vehicles and relevant records of the manufacturer.

(2) To enforce this chapter, an officer or employee designated by the Secretary, on presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, may inspect a facility in which passenger motor vehicles or passenger motor vehicle equipment is manufactured, held for introduction in interstate commerce, or held for sale after introduction in interstate commerce. An inspection shall be conducted at a reasonable time, in a reasonable way, and with reasonable promptness.

(b) POWERS OF SECRETARY AND CIVIL ACTIONS TO ENFORCE.—(1) In carrying out this chapter, the Secretary may—

(A) inspect and copy records of any person at reasonable times;

(B) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(C) conduct hearings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(2) A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(3) A civil action to enforce a subpena or order of the Secretary under this subsection may be brought in the United States district court for any judicial district in which the proceeding by the Secretary is conducted. The court may punish a failure to obey an order of the court to comply with the subpena or order of the Secretary as a contempt of court.

(c) CONFIDENTIALITY OF INFORMATION.—(1) Information obtained by the Secretary under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only—

(A) to another officer or employee of the United States Government for use in carrying out this chapter; or

(B) in a proceeding under this chapter.

(2) This subsection does not authorize information to be withheld from a committee of Congress authorized to have the information.

(3) Subject to paragraph (1) of this subsection, the Secretary, on request, shall make available to the public at cost information the Secretary submits or receives in carrying out this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1044; Pub. L. 103–429, §6(32), Oct. 31, 1994, 108 Stat. 4380.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32505(a)(1) ..	15:1915(a).	Oct. 20, 1972, Pub. L. 92–513, §§104(a), (b), 105(a), (b), 109, 86 Stat. 950, 951, 952, 955.
32505(a)(2) ..	15:1915(b).	
32505(b)(1) ..	15:1914(a)(1)–(3).	
32505(b)(2) ..	15:1914(a)(5).	
32505(b)(3) ..	15:1914(a)(4).	
32505(c)(1), (2).	15:1914(b).	
32505(c)(3) ..	15:1919.	

In subsection (a)(1), before clause (A), the words ''To enable the Secretary of Transportation to decide whether . . . is complying'' are substituted for ''to enable him to determine whether such manufacturer has acted or is acting in compliance'' and ''determining whether such manufacturer has acted or is acting in compliance'' to eliminate unnecessary words. The word ''reasonably'' is omitted as surplus. In clause (A), the word ''keep'' is substituted for ''establish and maintain'' for consistency in the revised title and to eliminate unnecessary words. In clause (C), the text of 15:1915(a) (2d sentence) is omitted as surplus because of 49:322(a). In clause (D), the words ''upon request'' and ''duly'' are omitted as surplus.

In subsection (a)(2), the word ''enter'' is omitted as being as included in ''inspect''. The word ''facility'' is substituted for ''factory, warehouse, or establishment'' to eliminate unnecessary words. The words ''shall be commenced and completed'' are omitted as surplus.

In subsection (b)(1), before clause (A), the words ''In carrying out this chapter'' are substituted for ''For the purpose of carrying out the provisions of this subchapter'', ''In order to carry out the provisions of this subchapter'', ''relevant to any function of the Secretary under this subchapter'', and ''relating to any function of the Secretary under this subchapter'' for consistency. In clause (A), the words ''inspect and copy'' are substituted for ''have access to, and for the purposes of examination the right to copy'' to eliminate unnecessary words. The word ''records'' is substituted for ''documentary evidence'' for consistency. In clause (B), the word ''order'' is substituted for ''require, by general or special orders'' to eliminate unnec-

essary words. The words ''in such form as the Secretary may prescribe'' and ''shall be filed with the Secretary within such reasonable period as the Secretary may prescribe'' are omitted as surplus because of 49:322(a). In clause (C), the words ''sit and act at such times and places'' are omitted as being included in ''conduct hearings''.

In subsection (b)(3), the words ''A civil action to enforce a subpena or order of the Secretary under this subsection may be brought in the United States district court for the judicial district in which the proceeding by the Secretary was conducted'' are substituted for 15:1914(a)(4) (words before semicolon) for consistency in the revised title and to eliminate unnecessary words.

In subsection (c)(1), before clause (A), the words ''reported to or otherwise'' are omitted as surplus. The words ''or his representative'' are omitted for consistency with subsection (b) of this section. The words ''related to a confidential matter referred to'' are substituted for ''contains or relates to a trade secret or other matter referred to'' to eliminate unnecessary words. The words ''shall be considered confidential for the purpose of that section'' are omitted as surplus. In clause (A), the words ''of the United States Government'' are added for clarity. In clause (B) the words ''when relevant'' are omitted as surplus.

In subsection (c)(2), the words ''a committee of Congress authorized to have the information'' are substituted for ''the duly authorized committees of the Congress'' for clarity.

In subsection (c)(3), the words ''copies of any communications, documents, reports, or other'' are omitted as surplus.

PUB. L. 103–429

This amends 49:32505(b)(3) to clarify the restatement of 15:1914(a)(4) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1044).

AMENDMENTS

1994—Subsec. (b)(3). Pub. L. 103–429 substituted ''any judicial district in which the proceeding by the Secretary is conducted'' for ''the judicial district in which the proceeding by the Secretary was conducted''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§ 32506. Prohibited acts

(a) GENERAL.—Except as provided in this section, a person may not—

(1) manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, a passenger motor vehicle or passenger motor vehicle equipment manufactured on or after the date an applicable standard under section 32502 of this title takes effect, unless it conforms to the standard;

(2) fail to comply with an applicable regulation prescribed by the Secretary of Transportation under this chapter;

(3) fail to keep records, refuse access to or copying of records, fail to make reports or provide items or information, or fail or refuse to allow entry or inspection, as required by this chapter or a regulation prescribed under this chapter; or

(4) fail to provide the certificate required by section 32504 of this title, or provide a certificate that the person knows, or in the exercise of reasonable care has reason to know, is false or misleading in a material respect.

(b) NONAPPLICATION.—Subsection (a)(1) of this section does not apply to—

(1) the sale, offer for sale, or introduction or delivery for introduction in interstate commerce of a passenger motor vehicle or passenger motor vehicle equipment after the first purchase of the vehicle or equipment in good faith other than for resale (but this clause does not prohibit a standard from requiring that a vehicle or equipment be manufactured to comply with the standard over a specified period of operation or use); or

(2) a person—

(A) establishing that the person had no reason to know, by exercising reasonable care, that the vehicle or equipment does not comply with the standard; or

(B) holding, without knowing about a noncompliance and before that first purchase, a certificate issued under section 32504 of this title stating that the vehicle or equipment complies with the standard.

(c) IMPORTING NONCOMPLYING VEHICLES AND EQUIPMENT.—(1) The Secretaries of Transportation and the Treasury may prescribe joint regulations authorizing a passenger motor vehicle or passenger motor vehicle equipment not complying with a standard prescribed under section 32502 of this title to be imported into the United States subject to conditions (including providing a bond) the Secretaries consider appropriate to ensure that the vehicle or equipment will—

(A) comply, after importation, with the standards prescribed under section 32502 of this title;

(B) be exported; or

(C) be abandoned to the United States Government.

(2) The Secretaries may prescribe joint regulations that allow a passenger motor vehicle or passenger motor vehicle equipment to be imported into the United States after the first purchase in good faith other than for resale.

(d) LIABILITY UNDER OTHER LAW.—Compliance with a standard under this chapter does not exempt a person from liability provided by law.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1045.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32506(a)	15:1916(a).	Oct. 20, 1972, Pub. L. 92–513, § 106, 86 Stat. 952.
32506(b)	15:1916(b)(1), (2).	
32506(c)	15:1916(b)(3), (4).	
32506(d)	15:1916(c).	

In subsection (a)(4), the words ''required by such subsection to the effect that a passenger motor vehicle or passenger motor vehicle equipment conforms to all applicable bumper standards'' are omitted as surplus.

In subsection (c)(1), before clause (A), the word ''conditions'' is substituted for ''such terms and conditions'' to eliminate unnecessary words. In clause (A), the words ''comply, after importation'' are substituted for ''brought into conformity'' for clarity and consistency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32507 of this title.

§ 32507. Penalties and enforcement

(a) CIVIL PENALTY.—(1) A person that violates section 32506(a) of this title is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. A separate violation occurs for each passenger motor vehicle or item of passenger motor vehicle equipment involved in a violation of section 32506(a)(1) or (4) of this title—

(A) that does not comply with a standard prescribed under section 32502 of this title; or

(B) for which a certificate is not provided, or for which a false or misleading certificate is provided, under section 32504 of this title.

(2) The maximum civil penalty under this subsection for a related series of violations is $800,000.

(3) The Secretary of Transportation imposes a civil penalty under this subsection. The Attorney General or the Secretary, with the concurrence of the Attorney General, shall bring a civil action in a United States district court to collect the penalty.

(b) CRIMINAL PENALTY.—A person knowingly and willfully violating section 32506(a)(1) of this title after receiving a notice of noncompliance from the Secretary shall be fined under title 18, imprisoned for not more than one year, or both. If the person is a corporation, the penalties of this subsection also apply to a director, officer, or individual agent of the corporation who, with knowledge of the Secretary's notice, knowingly and willfully authorizes, orders, or performs an act that is any part of the violation.

(c) CIVIL ACTIONS TO ENFORCE.—(1) The Secretary or the Attorney General may bring a civil action in a United States district court to enjoin a violation of this chapter or the sale, offer for sale, introduction or delivery for introduction in interstate commerce, or importation into the United States, of a passenger motor vehicle or passenger motor vehicle equipment that is found, before the first purchase in good faith other than for resale, not to comply with a standard prescribed under section 32502 of this title.

(2) When practicable, the Secretary shall—

(A) notify a person against whom an action under this subsection is planned;

(B) give the person an opportunity to present that person's views; and

(C) except for a knowing and willful violation, give the person a reasonable opportunity to comply.

(3) The failure of the Secretary to comply with paragraph (2) of this subsection does not prevent a court from granting appropriate relief.

(d) JURY TRIAL DEMAND.—In a trial for criminal contempt for violating an injunction or restraining order issued under subsection (c) of this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(e) VENUE.—A civil action under subsection (a) or (c) of this section may be brought in the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1046.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32507(a)	15:1917(a).	Oct. 20, 1972, Pub. L. 92–513, § 107, 86 Stat. 953.
32507(b)	15:1917(b).	
32507(c)	15:1917(c)(1).	
32507(d)	15:1917(c)(2).	
32507(e)	15:1917(c)(3), (4).	

In subsection (a)(3), the words ''by any of the Secretary's attorneys designated by the Secretary for such purpose'' are omitted as surplus.

In subsection (b), the words ''fined under title 18'' are substituted for ''fined not more than $50,000'' for consistency with title 18. The words ''If the person is a corporation, the penalties of this subsection also apply'' are substituted for ''If a corporation violates section 1916(a)(1) of this title after having received notice of noncompliance from the Secretary . . . shall be subject to penalties under this section in addition to the corporation'', the word ''act'' is substituted for ''acts or practices'', and the words ''any part of the violation'' are substituted for ''in whole or in part such violation'', to eliminate unnecessary words.

In subsection (c)(1), the words ''may bring a civil action'' are substituted for ''Upon petition . . . on behalf of the United States . . . have jurisdiction'' for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.) and to eliminate unnecessary words. The words ''for cause shown and subject to the provisions of rule 65(a) and (b) of the Federal Rules of Civil Procedure'' are omitted as surplus because the rules apply in the absence of an exemption from them. The word ''enjoin'' is substituted for ''restrain'' for consistency.

In subsection (d), the words ''the defendant may demand a jury trial'' are substituted for ''trial shall be by the court, or, upon demand of the accused, by a jury'' to eliminate unnecessary words and for consistency in the revised title.

In subsection (e), the words ''any act or transaction constituting'' are omitted as surplus. The word ''resides'' is substituted for ''is an inhabitant'' for consistency and to eliminate unnecessary words.

§ 32508. Civil actions by owners of passenger motor vehicles

When an owner of a passenger motor vehicle sustains damages as a result of a motor vehicle accident because the vehicle did not comply with a standard prescribed under section 32502 of this title, the owner may bring a civil action against the manufacturer to recover the damages. The action may be brought in the United States District Court for the District of Columbia or in the United States district court for the judicial district in which the owner resides. The action must be brought not later than 3 years after the date of the accident. The court shall award costs and a reasonable attorney's fee to the owner when a judgment is entered for the owner.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1047.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32508	15:1918.	Oct. 20, 1972, Pub. L. 92–513, § 108, 86 Stat. 955.

The words ''applicable Federal'' are omitted as surplus. The words ''when a judgment is entered for the owner'' are substituted for ''in the case of any such successful action to recover that amount'' to eliminate unnecessary words.

§ 32509. Information and assistance from other departments, agencies, and instrumentalities

(a) GENERAL AUTHORITY.—The Secretary of Transportation may request information necessary to carry out this chapter from a department, agency, or instrumentality of the United States Government. The head of the department, agency, or instrumentality shall provide the information.

(b) DETAILING PERSONNEL.—The head of a department, agency, or instrumentality may detail, on a reimbursable basis, personnel to assist the Secretary in carrying out this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1047.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32509	15:1914(c).	Oct. 20, 1972, Pub. L. 92–513, § 104(c), 86 Stat. 951.

In subsection (a), the words ''he deems'' and ''his functions under'' are omitted as surplus. The words ''head of the'' are added for consistency in the revised title and with other titles of the United States Code. The words ''cooperate with the Secretary and'' and ''to the Department of Transportation upon request made by the Secretary'' are omitted as surplus.

§ 32510. Annual report

Not later than March 31 of each year, the Secretary of Transportation shall submit to Congress and the President a report on the progress in carrying out section 32501 of this title. The report shall include—

(1) a statement of the cost savings resulting from carrying out this chapter; and

(2) recommendations for legislative or other action the Secretary decides may be appropriate.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1047.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32510	15:1922.	Oct. 20, 1972, Pub. L. 92–513, § 112, 86 Stat. 955.

In clause (2), the word ''further'' is omitted as surplus.

§ 32511. Relationship to other motor vehicle standards

(a) PREEMPTION.—Except as provided in this section, a State or a political subdivision of a State may prescribe or enforce a bumper standard for a passenger motor vehicle or passenger motor vehicle equipment only if the standard is identical to a standard prescribed under section 32502 of this title.

(b) ENFORCEMENT.—This chapter and chapter 301 of this title do not affect the authority of a State to enforce a bumper standard about an aspect of performance of a passenger motor vehicle or passenger motor vehicle equipment not covered by a standard prescribed under section 32502 of this title if the State bumper standard—

(1) does not conflict with a standard prescribed under chapter 301 of this title; and

(2) was in effect or prescribed by the State on October 20, 1972.

(c) ADDITIONAL AND HIGHER STANDARDS OF PERFORMANCE.—The United States Government, a State, or a political subdivision of a State may prescribe a bumper standard for a passenger motor vehicle or passenger motor vehicle equipment obtained for its own use that imposes additional or higher standards of performance than a standard prescribed under section 32502 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1047.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32511(a)	15:1920(a).	Oct. 20, 1972, Pub. L. 92–513, § 110, 86 Stat. 955.
32511(b)	15:1920(b)(1).	
32511(c)	15:1920(b)(2).	

In subsection (a), the words ''may prescribe or enforce . . . only if the standard is identical'' are substituted for ''no . . . shall have any authority to establish or enforce with respect to . . . which is not identical'' to eliminate unnecessary words. The words ''a standard prescribed under section 32502 of this title'' are substituted for ''Federal bumper standard'' for clarity.

In subsection (b), before clause (1), the words ''to continue'' are omitted as surplus. The words ''a bumper standard about an aspect of performance . . . not covered by a standard prescribed under section 32502 of this title'' are substituted for ''Until a Federal bumper standard takes effect with respect to an aspect of performance'' and ''any bumper standard which is applicable to the same aspect of performance of such vehicle or item of equipment'' to eliminate unnecessary words. The words ''if the State bumper standard'' are added for clarity.

In subsection (c), the words ''that imposes additional or higher standards of performance than'' are substituted for ''which is not identical to . . . if such requirement imposes an additional or higher standard of performance'' for clarity and to eliminate unnecessary words.

CHAPTER 327—ODOMETERS

Sec.
32701. Findings and purposes.
32702. Definitions.
32703. Preventing tampering.
32704. Service, repair, and replacement.
32705. Disclosure requirements on transfer of motor vehicles.
32706. Inspections, investigations, and records.
32707. Administrative warrants.
32708. Confidentiality of information.
32709. Penalties and enforcement.
32710. Civil actions by private persons.
32711. Relationship to State law.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 18 section 2721.

§ 32701. Findings and purposes

(a) FINDINGS.—Congress finds that—

(1) buyers of motor vehicles rely heavily on the odometer reading as an index of the condition and value of a vehicle;

(2) buyers are entitled to rely on the odometer reading as an accurate indication of the mileage of the vehicle;

(3) an accurate indication of the mileage assists a buyer in deciding on the safety and reliability of the vehicle; and

(4) motor vehicles move in, or affect, interstate and foreign commerce.

(b) PURPOSES.—The purposes of this chapter are—

(1) to prohibit tampering with motor vehicle odometers; and

(2) to provide safeguards to protect purchasers in the sale of motor vehicles with altered or reset odometers.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1048.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32701(a)	15:1981 (1st sentence).	Oct. 20, 1972, Pub. L. 92–513, § 401, 86 Stat. 961.
32701(b)	15:1981 (last sentence).	

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32705 of this title.

§ 32702. Definitions

In this chapter—

(1) ''auction company'' means a person taking possession of a motor vehicle owned by another to sell at an auction.

(2) ''dealer'' means a person that sold at least 5 motor vehicles during the prior 12 months to buyers that in good faith bought the vehicles other than for resale.

(3) ''distributor'' means a person that sold at least 5 motor vehicles during the prior 12 months for resale.

(4) ''leased motor vehicle'' means a motor vehicle leased to a person for at least 4 months by a lessor that leased at least 5 vehicles during the prior 12 months.

(5) ''odometer'' means an instrument for measuring and recording the distance a motor vehicle is driven, but does not include an auxiliary instrument designed to be reset by the operator of the vehicle to record mileage of a trip.

(6) ''repair'' and ''replace'' mean to restore to a sound working condition by replacing any part of an odometer or by correcting any inoperative part of an odometer.

(7) ''title'' means the certificate of title or other document issued by the State indicating ownership.

(8) ''transfer'' means to change ownership by sale, gift, or any other means.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1048; Pub. L. 104–287, § 5(61), Oct. 11, 1996, 110 Stat. 3394.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32702(1)	15:1982(8).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 402(6)–(8); added Oct. 28, 1986, Pub. L. 99–579, § 2(b), 100 Stat. 3310.
32702(2)	15:1982(1).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 402(1), (2); added July 14, 1976, Pub. L. 94–364, § 401(2), 90 Stat. 983.
32702(3)	15:1982(2).	
32702(4)	15:1982(7).	
32702(5)	15:1982(3).	Oct. 20, 1972, Pub. L. 92–513, § 402(3)–(5), 86 Stat. 961; July 14, 1976, Pub. L. 94–364, § 401(1), 90 Stat. 983.
32702(6)	15:1982(4).	
32702(7)	15:1982(6).	
32702(8)	15:1982(5).	

In clause (1), the words ''(whether through consignment or bailment or through any other arrangement)'' and ''such motor vehicle'' are omitted as surplus.

In clause (4), the words ''a term of'' are omitted as surplus.

In clause (5), the words ''the distance a motor vehicle is driven'' are substituted for ''the actual distance a motor vehicle travels while in operation'' for clarity and to eliminate unnecessary words.

PUB. L. 104–287

This amends 49:32702(8) and 32705 to clarify the restatement of 15:1982(5) and 1988 by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1049).

AMENDMENTS

1996—Par. (8). Pub. L. 104–287 inserted ''any'' after ''or''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

§ 32703. Preventing tampering

A person may not—

(1) advertise for sale, sell, use, install, or have installed, a device that makes an odometer of a motor vehicle register a mileage different from the mileage the vehicle was driven, as registered by the odometer within the designed tolerance of the manufacturer of the odometer;

(2) disconnect, reset, alter, or have disconnected, reset, or altered, an odometer of a motor vehicle intending to change the mileage registered by the odometer;

(3) with intent to defraud, operate a motor vehicle on a street, road, or highway if the person knows that the odometer of the vehicle is disconnected or not operating; or

(4) conspire to violate this section or section 32704 or 32705 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1049; Pub. L. 103–429, § 6(33), Oct. 31, 1994, 108 Stat. 4380.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32703(1)	15:1983.	Oct. 20, 1972, Pub. L. 92–513, § 403, 86 Stat. 962; July 14, 1976, Pub. L. 94–364, § 402, 90 Stat. 983.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32703(2)	15:1984.	Oct. 20, 1972, Pub. L. 92–513, §§404, 405, 86 Stat. 962; restated July 14, 1976, Pub. L. 94–364, §§403, 404, 90 Stat. 983.
32703(3)	15:1985.	
32703(4)	15:1986.	Oct. 20, 1972, Pub. L. 92–513, §406, 86 Stat. 962.

In clause (1), the words ''the mileage the vehicle was driven, as registered by the odometer within the designed tolerance of the manufacturer of the odometer'' are substituted for ''the true mileage driven. For purposes of this section, the true mileage driven is that mileage driven by the vehicle as registered by the odometer within the manufacturer's designed tolerance'' to eliminate unnecessary words.

In clause (3), the words ''public'' and ''road'' are added for consistency in this subtitle.

PUB. L. 103–429

This amends 49:32703(3) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1049).

AMENDMENTS

1994—Par. (3). Pub. L. 103–429 struck out ''public'' before ''street''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§ 32704. Service, repair, and replacement

(a) ADJUSTING MILEAGE.—A person may service, repair, or replace an odometer of a motor vehicle if the mileage registered by the odometer remains the same as before the service, repair, or replacement. If the mileage cannot remain the same—

(1) the person shall adjust the odometer to read zero; and

(2) the owner of the vehicle or agent of the owner shall attach a written notice to the left door frame of the vehicle specifying the mileage before the service, repair, or replacement and the date of the service, repair, or replacement.

(b) REMOVING OR ALTERING NOTICE.—A person may not, with intent to defraud, remove or alter a notice attached to a motor vehicle as required by this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1049.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32704	15:1987.	Oct. 20, 1972, Pub. L. 92–513, §407, 86 Stat. 962; July 14, 1976, Pub. L. 94–364, §405, 90 Stat. 983.

In subsection (b), the text of 15:1987(b)(1) is omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32703 of this title.

§ 32705. Disclosure requirements on transfer of motor vehicles

(a)(1) DISCLOSURE REQUIREMENTS.—Under regulations prescribed by the Secretary of Transportation that include the way in which information is disclosed and retained under this section, a person transferring ownership of a motor vehicle shall give the transferee the following written disclosure:

(A) Disclosure of the cumulative mileage registered on the odometer.

(B) Disclosure that the actual mileage is unknown, if the transferor knows that the odometer reading is different from the number of miles the vehicle has actually traveled.

(2) A person transferring ownership of a motor vehicle may not violate a regulation prescribed under this section or give a false statement to the transferee in making the disclosure required by such a regulation.

(3) A person acquiring a motor vehicle for resale may not accept a written disclosure under this section unless it is complete.

(b) MILEAGE STATEMENT REQUIREMENT FOR LICENSING.—(1) A motor vehicle the ownership of which is transferred may not be licensed for use in a State unless the transferee, in submitting an application to a State for the title on which the license will be issued, includes with the application the transferor's title and, if that title contains the space referred to in paragraph (3)(A)(iii) of this subsection, a statement, signed and dated by the transferor, of the mileage disclosure required under subsection (a) of this section. This paragraph does not apply to a transfer of ownership of a motor vehicle that has not been licensed before the transfer.

(2)(A) Under regulations prescribed by the Secretary, if the title to a motor vehicle issued to a transferor by a State is in the possession of a lienholder when the transferor transfers ownership of the vehicle, the transferor may use a written power of attorney (if allowed by State law) in making the mileage disclosure required under subsection (a) of this section. Regulations prescribed under this paragraph—

(i) shall prescribe the form of the power of attorney;

(ii) shall provide that the form be printed by means of a secure printing process (or other secure process);

(iii) shall provide that the State issue the form to the transferee;

(iv) shall provide that the person exercising the power of attorney retain a copy and submit the original to the State with a copy of the title showing the restatement of the mileage;

(v) may require that the State retain the power of attorney and the copy of the title for an appropriate period or that the State adopt alternative measures consistent with section 32701(b) of this title, after considering the costs to the State;

(vi) shall ensure that the mileage at the time of transfer be disclosed on the power of attorney document;

(vii) shall ensure that the mileage be restated exactly by the person exercising the power of attorney in the space referred to in paragraph (3)(A)(iii) of this subsection;

(viii) may not require that a motor vehicle be titled in the State in which the power of attorney was issued;

(ix) shall consider the need to facilitate normal commercial transactions in the sale or exchange of motor vehicles; and

(x) shall provide other conditions the Secretary considers appropriate.

(B) Section 32709(a) and (b) applies to a person granting or granted a power of attorney under this paragraph.

(3)(A) A motor vehicle the ownership of which is transferred may not be licensed for use in a State unless the title issued by the State to the transferee—

(i) is produced by means of a secure printing process (or other secure process);

(ii) indicates the mileage disclosure required to be made under subsection (a) of this section; and

(iii) contains a space for the transferee to disclose the mileage at the time of a future transfer and to sign and date the disclosure.

(B) Subparagraph (A) of this paragraph does not require a State to verify, or preclude a State from verifying, the mileage information contained in the title.

(c) LEASED MOTOR VEHICLES.—(1) For a leased motor vehicle, the regulations prescribed under subsection (a) of this section shall require written disclosure about mileage to be made by the lessee to the lessor when the lessor transfers ownership of that vehicle.

(2) Under those regulations, the lessor shall provide written notice to the lessee of—

(A) the lessee's mileage disclosure requirements under paragraph (1) of this subsection; and

(B) the penalties for failure to comply with those requirements.

(3) The lessor shall retain the disclosures made by a lessee under paragraph (1) of this subsection for at least 4 years following the date the lessor transfers the leased motor vehicle.

(4) If the lessor transfers ownership of a leased motor vehicle without obtaining possession of the vehicle, the lessor, in making the disclosure required by subsection (a) of this section, may indicate on the title the mileage disclosed by the lessee under paragraph (1) of this subsection unless the lessor has reason to believe that the disclosure by the lessee does not reflect the actual mileage of the vehicle.

(d) STATE ALTERNATE VEHICLE MILEAGE DISCLOSURE REQUIREMENTS.—The requirements of subsections (b) and (c)(1) of this section on the disclosure of motor vehicle mileage when motor vehicles are transferred or leased apply in a State unless the State has in effect alternate motor vehicle mileage disclosure requirements approved by the Secretary. The Secretary shall approve alternate motor vehicle mileage disclosure requirements submitted by a State unless the Secretary decides that the requirements are not consistent with the purpose of the disclosure required by subsection (b) or (c), as the case may be.

(e) AUCTION SALES.—If a motor vehicle is sold at an auction, the auction company conducting the auction shall maintain the following records for at least 4 years after the date of the sale:

(1) the name of the most recent owner of the motor vehicle (except the auction company) and the name of the buyer of the motor vehicle.

(2) the vehicle identification number required under chapter 301 or 331 of this title.

(3) the odometer reading on the date the auction company took possession of the motor vehicle.

(f) APPLICATION AND REVISION OF STATE LAW.—(1) Except as provided in paragraph (2) of this subsection, subsections (b)–(e) of this section apply to the transfer of a motor vehicle after April 28, 1989.

(2) If a State requests, the Secretary shall assist the State in revising its laws to comply with subsection (b) of this section. If a State requires time beyond April 28, 1989, to revise its laws to achieve compliance, the Secretary, on request of the State, may grant additional time that the Secretary considers reasonable by publishing a notice in the Federal Register. The notice shall include the reasons for granting the additional time. In granting additional time, the Secretary shall ensure that the State is making reasonable efforts to achieve compliance.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1049; Pub. L. 103–429, §6(34), Oct. 31, 1994, 108 Stat. 4380; Pub. L. 104–287, §5(62), Oct. 11, 1996, 110 Stat. 3394.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32705(a)	15:1988(a).	Oct. 20, 1972, Pub. L. 92–513, §408(a), 86 Stat. 962.
	15:1988(b) (related to false statements).	Oct. 20, 1972, Pub. L. 92–513, §408(b) (related to false statements), 86 Stat. 963; restated July 14, 1976, Pub. L. 94–364, §406, 90 Stat. 983.
	15:1988(c).	Oct. 20, 1972, Pub. L. 92–513, §408(c), 86 Stat. 963; restated July 14, 1976, Pub. L. 94–364, §406, 90 Stat. 984.
32705(b)(1) ..	15:1988(d)(1)(A), (B).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §408(d)(1)(A), (B), (2)–(g); added Oct. 28, 1986, Pub. L. 99–579, §2(a), 100 Stat. 3309.
32705(b)(2) ..	15:1988(d)(1)(C).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §408(d)(1)(C); added Oct. 31, 1988, Pub. L. 100–561, §401, 102 Stat. 2817; Nov. 28, 1990, Pub. L. 101–641, §7(a), 104 Stat. 4657.
	15:1988 (note).	Nov. 28, 1990, Pub. L. 101–641, §7(b) (last sentence), 104 Stat. 4657.
32705(b)(3) ..	15:1988(d)(2).	
32705(c)	15:1988(e).	
32705(d)	15:1988(f).	
32705(e)	15:1988(g).	
32705(f)	15:1988 (note).	Oct. 28, 1986, Pub. L. 99–579, §2(c), 100 Stat. 3310.

In subsection (a)(1), before clause (A), the words ''Not later than 90 days after October 20, 1972'' are omitted as executed. In clause (B), the words ''if the transferor knows that the mileage registered by the odometer is incorrect'' are substituted for ''if the odometer reading is known to the transferor to be different from the number of miles the vehicle has actually traveled'' to eliminate unnecessary words.

In subsection (b)(2)(A), before clause (i), the words ''Under regulations prescribed by the Secretary'' are substituted for ''prescribed by rule by the Secretary'' for consistency in the revised title and because ''rule'' is synonymous with ''regulation''. The words ''to a

transferor'' are added for clarity. The words ''before February 1, 1989'' are omitted as expired. The words ''in the possession of'' are substituted for ''physically held by'', and the words ''when the transferor transfers ownership of the vehicle'' are substituted for ''at the time of a transfer of such motor vehicle'', for clarity and consistency. The words ''the transferor may'' are substituted for ''nothing in this subsection shall be construed to prohibit'' for clarity and to eliminate unnecessary words. Clause (i) is substituted for ''in a form'' and clause (ii) is substituted for ''in accordance with paragraph (2)(A)(i)'' for clarity and consistency. In clause (iii), the words ''consistent with the purposes of this Act and the need to facilitate enforcement thereof'' are omitted as surplus. In clauses (iv), (v), (viii), and (ix), the amendment made by section 7(a) of the Independent Safety Board Act Amendments of 1990 (Public Law 101–641, 104 Stat. 4657) is restated as amending section 408(d)(1)(C) of the Motor Vehicle and Cost Savings Act (15 U.S.C. 1988(d)(1)(C)) instead of section 408(d)(2)(C) of that Act to reflect the probable intent of Congress. There is no section 408(d)(2)(C) in that Act. Clause (vii) is substituted for ''and under reasonable conditions'' for clarity and consistency.

In subsection (b)(3)(A), before clause (i), the words ''following such transfer'' are omitted as surplus. In clause (i), the word ''produced'' is substituted for ''set forth'' for clarity. In clause (iii), the words ''(in the event of a future transfer)'' are omitted as surplus.

In subsection (d), the text of 15:1988(f)(1) (last sentence) is omitted as surplus because of 49:322(a).

In subsection (e), before clause (1), the words ''establish and'' are omitted as executed.

In subsection (f)(1), the text of section 2(c)(3) of the Truth in Mileage Act of 1986 (Public Law 99–579, 100 Stat. 3311) is omitted as surplus.

PUB. L. 103–429

This amends 49:32705(c)(2)(A) to clarify the restatement of 15:1988(e)(2)(A) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1051).

PUB. L. 104–287

This amends 49:32702(8) and 32705 to clarify the restatement of 15:1982(5) and 1988 by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1049).

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–287, §5(62)(A), substituted ''Disclosure requirements'' for ''Written disclosure requirements'' in heading and amended text generally. Prior to amendment, text read as follows:

''(1) Under regulations prescribed by the Secretary of Transportation, a person transferring ownership of a motor vehicle shall give the transferee a written disclosure—

''(A) of the cumulative mileage registered by the odometer; or

''(B) that the mileage is unknown if the transferor knows that the mileage registered by the odometer is incorrect.

''(2) A person making a written disclosure required by a regulation prescribed under paragraph (1) of this subsection may not make a false statement in the disclosure.

''(3) A person acquiring a motor vehicle for resale may accept a disclosure under this section only if it is complete.

''(4) The regulations prescribed by the Secretary shall provide the way in which information is disclosed and retained under this section.''

Subsec. (b)(3)(A). Pub. L. 104–287, §5(62)(B), substituted ''may not be licensed for use in a State unless'' for ''may be licensed for use in a State only if'' in introductory provisions.

1994—Subsec. (c)(2)(A). Pub. L. 103–429 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the mileage disclosure requirements of subsection (a) of this section; and''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

REGULATIONS

Section 4(q) of Pub. L. 103–272 provided that: ''The revision of regulations, referred to in section 32705(b)(2)(A) of title 49, United States Code, as enacted by section 1 of this Act, that is required by section 7 of the Independent Safety Board Act Amendments of 1990 (Public Law 101–641, 104 Stat. 4657) [former 15 U.S.C. 1988(d)(1)(C), 1988 note] shall be prescribed not later than May 28, 1991.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30502, 32703 of this title.

§ 32706. Inspections, investigations, and records

(a) AUTHORITY TO INSPECT AND INVESTIGATE.—Subject to section 32707 of this title, the Secretary of Transportation may conduct an inspection or investigation necessary to carry out this chapter or a regulation prescribed or order issued under this chapter. The Secretary shall cooperate with State and local officials to the greatest extent possible in conducting an inspection or investigation. The Secretary may give the Attorney General information about a violation of this chapter or a regulation prescribed or order issued under this chapter.

(b) ENTRY, INSPECTION, AND IMPOUNDMENT.—(1) In carrying out subsection (a) of this section, an officer or employee designated by the Secretary, on display of proper credentials and written notice to the owner, operator, or agent in charge, may—

(A) enter and inspect commercial premises in which a motor vehicle or motor vehicle equipment is manufactured, held for shipment or sale, maintained, or repaired;

(B) enter and inspect noncommercial premises in which the Secretary reasonably believes there is a motor vehicle or motor vehicle equipment that is an object of a violation of this chapter;

(C) inspect that motor vehicle or motor vehicle equipment; and

(D) impound for not more than 72 hours for inspection a motor vehicle or motor vehicle equipment that the Secretary reasonably believes is an object of a violation of this chapter.

(2) An inspection or impoundment under this subsection shall be conducted at a reasonable time, in a reasonable way, and with reasonable promptness. The written notice may consist of a warrant issued under section 32707 of this title.

(c) REASONABLE COMPENSATION.—When the Secretary impounds for inspection a motor vehicle (except a vehicle subject to subchapter I of chapter 135 of this title) or motor vehicle equipment under subsection (b)(1)(D) of this section, the Secretary shall pay reasonable compensation to the owner of the vehicle or equipment if the inspection or impoundment results in denial

of use, or reduction in value, of the vehicle or equipment.

(d) RECORDS AND INFORMATION REQUIREMENTS.—(1) To enable the Secretary to decide whether a dealer or distributor is complying with this chapter and regulations prescribed and orders issued under this chapter, the Secretary may require the dealer or distributor—

(A) to keep records;

(B) to provide information from those records if the Secretary states the purpose for requiring the information and identifies the information to the fullest extent practicable; and

(C) to allow an officer or employee designated by the Secretary to inspect relevant records of the dealer or distributor.

(2) This subsection and subsection (e)(1)(B) of this section do not authorize the Secretary to require a dealer or distributor to provide information on a regular periodic basis.

(e) ADMINISTRATIVE AUTHORITY AND CIVIL ACTIONS TO ENFORCE.—(1) In carrying out this chapter, the Secretary may—

(A) inspect and copy records of any person at reasonable times;

(B) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(C) conduct hearings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(2) A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(3) A civil action to enforce a subpena or order of the Secretary under this subsection may be brought in the United States district court for any judicial district in which the proceeding by the Secretary is conducted. The court may punish a failure to obey an order of the court to comply with the subpena or order of the Secretary as a contempt of court.

(f) PROHIBITIONS.—A person may not fail to keep records, refuse access to or copying of records, fail to make reports or provide information, fail to allow entry or inspection, or fail to permit impoundment, as required under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1052; Pub. L. 103–429, §6(35), Oct. 31, 1994, 108 Stat. 4380; Pub. L. 105–102, §2(19), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32706(a)	15:1990d(a)(1).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §§414(a)–(c), 416; added July 14, 1976, Pub. L. 94–364, §408(2), 90 Stat. 985, 988.
32706(b)	15:1990d(a)(2).	
32706(c)	15:1990d(a)(3).	
32706(d)	15:1990d(b).	
32706(e)(1) ..	15:1990d(c)(1)–(3).	
32706(e)(2) ..	15:1990d(c)(5).	
32706(e)(3) ..	15:1990d(c)(4).	
32706(f)	15:1990f.	

In subsection (a), the words ''Subject to section 32707 of this title'' are added for clarity. The words ''appropriate'' and ''consistent with the purposes of this subsection'' are omitted as surplus. The words ''The Secretary may give the Attorney General information'' are substituted for ''Information obtained . . . may be referred to the Attorney General for investigative consideration'' to eliminate unnecessary words.

In subsection (b)(1), before clause (A), the words ''duly'' and ''stating their purpose and'' are omitted as surplus. In clause (A), the words ''any factory, warehouse, establishment, or other'' are omitted as surplus.

In subsection (b)(2), the words ''shall be commenced and completed'' are omitted as surplus. The words ''a warrant issued under section 32707 of this title'' are substituted for ''an administrative inspection warrant'' for clarity.

In subsection (c), the words ''the authority of'' and ''any item of'' are omitted as surplus.

In subsection (d)(1), before clause (A), the words ''the Secretary may require'' are substituted for ''as the Secretary may reasonably require'' and ''as the Secretary finds necessary'' to eliminate unnecessary words. In clause (B), the words ''such officer or employee'' and ''reason or'' are omitted as surplus. In clause (C), the words ''duly'' and ''upon request of such officer or employee'' are omitted as surplus.

In subsection (d)(2), the words ''and subsection (e)(1)(B) of this section'' are added for clarity.

In subsection (e)(1), before clause (A), the words ''In carrying out this chapter'' are substituted for ''For the purpose of carrying out the provisions of this subchapter'', ''In order to carry out the provisions of this subchapter'', ''relevant to any function of the Secretary under this subchapter'', and ''relating to any function of the Secretary under this subchapter'' for consistency. The words ''or, with the authorization of the Secretary, any officer or employee of the Department of Transportation'' and ''or his duly authorized agent'' are omitted as surplus because of 49:322(b). In clause (A), the words ''inspect and copy'' are substituted for ''have access to, and for the purposes of examination the right to copy'' to eliminate unnecessary words. The word ''records'' is substituted for ''documentary evidence'' for consistency. The words ''having materials or information'' are omitted as surplus. In clause (B), the word ''order'' is substituted for ''require, by general or special orders'' to eliminate unnecessary words. The words ''in such form as the Secretary may prescribe'' and ''shall be filed with the Secretary within such reasonable period as the Secretary may prescribe'' are omitted as surplus because of 49:322(a). In clause (C), the words ''sit and act at such times and places'' are omitted as being included in ''conduct hearings''.

In subsection (e)(3), the words ''A civil action to enforce a subpena or order of the Secretary under this subsection may be brought in the United States district court for the judicial district in which the proceeding by the Secretary was conducted'' are substituted for 15:1990d(c)(4) (words before last comma) for consistency in the revised title and to eliminate unnecessary words.

PUB. L. 103–429

This amends 49:32706(e)(3) to clarify the restatement of 15:1990d(c)(4) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1053).

PUB. L. 105–102

This amends 49:32706(c) to correct a cross-reference necessary because of the restatement of subtitle IV of title 49 by the ICC Termination Act (Public Law 104–88, 109 Stat. 803).

AMENDMENTS

1997—Subsec. (c). Pub. L. 105–102 substituted ''subchapter I of chapter 135'' for ''subchapter II of chapter 105''.

1994—Subsec. (e)(3). Pub. L. 103–429 substituted ''any judicial district in which the proceeding by the Sec-

retary is conducted.'' for ''the judicial district in which the proceeding by the Secretary was conducted.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32707 of this title.

§ 32707. Administrative warrants

(a) DEFINITION.—In this section, ''probable cause'' means a valid public interest in the effective enforcement of this chapter or a regulation prescribed under this chapter sufficient to justify the inspection or impoundment in the circumstances stated in an application for a warrant under this section.

(b) WARRANT REQUIREMENT AND ISSUANCE.—(1) Except as provided in paragraph (4) of this subsection, an inspection or impoundment under section 32706 of this title may be carried out only after a warrant is obtained.

(2) A judge of a court of the United States or a State court of record or a United States magistrate may issue a warrant for an inspection or impoundment under section 32706 of this title within the territorial jurisdiction of the court or magistrate. The warrant must be based on an affidavit that—

(A) establishes probable cause to issue the warrant; and

(B) is sworn to before the judge or magistrate by an officer or employee who knows the facts alleged in the affidavit.

(3) The judge or magistrate shall issue the warrant when the judge or magistrate decides there is a reasonable basis for believing that probable cause exists to issue the warrant. The warrant must—

(A) identify the premises, property, or motor vehicle to be inspected and the items or type of property to be impounded;

(B) state the purpose of the inspection, the basis for issuing the warrant, and the name of the affiant;

(C) direct an individual authorized under section 32706 of this title to inspect the premises, property, or vehicle for the purpose stated in the warrant and, when appropriate, to impound the property specified in the warrant;

(D) direct that the warrant be served during the hours specified in the warrant; and

(E) name the judge or magistrate with whom proof of service is to be filed.

(4) A warrant under this section is not required when—

(A) the owner, operator, or agent in charge of the premises consents;

(B) it is reasonable to believe that the mobility of the motor vehicle to be inspected makes it impractical to obtain a warrant;

(C) an application for a warrant cannot be made because of an emergency;

(D) records are to be inspected and copied under section 32706(e)(1)(A) of this title; or

(E) a warrant is not constitutionally required.

(c) SERVICE AND IMPOUNDMENT OF PROPERTY.—(1) A warrant issued under this section must be served and proof of service filed not later than 10 days after its issuance date. The judge or magistrate may allow additional time in the warrant if the Secretary of Transportation demonstrates a need for additional time. Proof of service must be filed promptly with a written inventory of the property impounded under the warrant. The inventory shall be made in the presence of the individual serving the warrant and the individual from whose possession or premises the property was impounded, or if that individual is not present, a credible individual except the individual making the inventory. The individual serving the warrant shall verify the inventory. On request, the judge or magistrate shall send a copy of the inventory to the individual from whose possession or premises the property was impounded and to the applicant for the warrant.

(2) When property is impounded under a warrant, the individual serving the warrant shall—

(A) give the person from whose possession or premises the property was impounded a copy of the warrant and a receipt for the property; or

(B) leave the copy and receipt at the place from which the property was impounded.

(3) The judge or magistrate shall file the warrant, proof of service, and all documents filed about the warrant with the clerk of the United States district court for the judicial district in which the inspection is made.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1053.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32707(a)	15:1990e(b)(1) (last sentence).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 415; added July 14, 1976, Pub. L. 94–364, § 408(2), 90 Stat. 987.
32707(b)(1) ..	15:1990e(a) (words before 1st comma).	
32707(b)(2) ..	15:1990e(b)(1) (1st sentence), (2) (1st sentence).	
32707(b)(3) ..	15:1990e(b)(2) (2d, last sentences).	
32707(b)(4) ..	15:1990e(a) (words after 1st comma).	
32707(c)(1) ..	15:1990e(b)(3) (1st, 3d–last sentences).	
32707(c)(2) ..	15:1990e(b)(3) (2d sentence).	
32707(c)(3) ..	15:1990e(b)(4).	

In subsection (a), the words ''inspection or impoundment'' are substituted for ''administrative inspections of the area, factory, warehouse, establishment, premises, or motor vehicle, or contents thereof'' to eliminate unnecessary words and for consistency in this section.

In subsection (b)(1), the words ''Except as provided in paragraph (4) of this subsection'' are added for clarity. The words ''an inspection or impoundment'' are substituted for ''any entry or administrative inspection (including impoundment of motor vehicles or motor vehicle equipment)'' to eliminate unnecessary words.

In subsection (b)(2), before clause (A), the words ''inspection or impoundment'' are substituted for ''the purpose of conducting administrative inspections authorized by section 1990d of this title and impoundment of motor vehicles or motor vehicle equipment appropriate to such inspections'' for consistency in this section. The words ''of the court or magistrate'' are substituted for ''his'' for clarity. The words ''and upon

proper oath or affirmation'' are omitted as surplus because of clause (B). Clause (A) is substituted for ''showing probable cause'' and ''and establishing the grounds for issuing the warrant'' to eliminate unnecessary words.

In subsection (b)(3), before clause (A), the words ''when the judge or magistrate decides there is a reasonable basis for believing that probable cause exists to issue the warrant'' are substituted for ''If the judge or magistrate is satisfied that grounds for the application exist or that there is a reasonable basis for believing they exist'' for consistency in this section and to eliminate unnecessary words. In clauses (A) and (C), the words ''area, factory, warehouse, establishment'' are omitted as being included in ''premises''. In clause (A), the word ''property'' is substituted for ''and, where appropriate, the type of property to be inspected, if any'' to eliminate unnecessary words. In clause (B), the words ''the name of the affiant'' are substituted for ''the name of the person or persons whose affidavit has been taken in support thereof'' to eliminate unnecessary words. In clause (C), the words ''command the person to whom it is directed'' are omitted as surplus. The word ''property'' is added for consistency with the source provisions restated in clause (A) of this paragraph. In clause (E), the words ''proof of service is to be filed'' are substituted for ''it shall be returned'' for clarity.

In subsection (b)(4)(A), the words ''factory, warehouse, establishment'' are omitted as being included in ''premises''.

Subsection (b)(4)(C) is substituted for 15:1990e(a)(3) to eliminate unnecessary words.

In subsection (b)(4)(D), the words ''are to be inspected and copied'' are substituted for ''for access to and examination'' for consistency.

In subsection (b)(4)(E), the words ''in any other situations where'' are omitted as surplus.

In subsection (c)(2)(A), the words ''from whose possession or'' are substituted for ''from whom or from whose'' for clarity.

In subsection (c)(3), the words ''shall file the warrant, proof of service, and all documents filed about the warrant'' are substituted for ''shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them'' to eliminate unnecessary words. The words ''United States district court'' are substituted for ''district court of the United States'' for consistency with the definition in section 32101 of the revised title and with other provisions of the chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32706 of this title.

§ 32708. Confidentiality of information

(a) GENERAL.—Information obtained by the Secretary of Transportation under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only—

(1) to another officer or employee of the United States Government for use in carrying out this chapter; or

(2) in a proceeding under this chapter.

(b) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1054.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32708	15:1990d(d).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §414(d); added July 14, 1976, Pub. L. 94–364, §408(2), 90 Stat. 987.

In subsection (a), before clause (1), the words ''reported to or otherwise'' and ''or his representative'' are omitted as surplus. The words ''related to a confidential matter referred to'' are substituted for ''contains or relates to a trade secret or other matter referred to'' to eliminate unnecessary words. The words ''shall be considered confidential for the purpose of that section'' are omitted as surplus.

In subsection (b), the words ''a committee of Congress authorized to have the information'' are substituted for ''the duly authorized committees of the Congress'' for clarity.

§ 32709. Penalties and enforcement

(a) CIVIL PENALTY.—(1) A person that violates this chapter or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than $2,000 for each violation. A separate violation occurs for each motor vehicle or device involved in the violation. The maximum penalty under this subsection for a related series of violations is $100,000.

(2) The Secretary of Transportation shall impose a civil penalty under this subsection. The Attorney General shall bring a civil action to collect the penalty. Before referring a penalty claim to the Attorney General, the Secretary may compromise the amount of the penalty. Before compromising the amount of the penalty, the Secretary shall give the person charged with a violation an opportunity to establish that the violation did not occur.

(3) In determining the amount of a civil penalty under this subsection, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(C) other matters that justice requires.

(b) CRIMINAL PENALTY.—A person that knowingly and willfully violates this chapter or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 3 years, or both. If the person is a corporation, the penalties of this subsection also apply to a director, officer, or individual agent of a corporation who knowingly and willfully authorizes, orders, or performs an act in violation of this chapter or a regulation prescribed or order issued under this chapter without regard to penalties imposed on the corporation.

(c) CIVIL ACTIONS BY ATTORNEY GENERAL.—The Attorney General may bring a civil action to enjoin a violation of this chapter or a regulation prescribed or order issued under this chapter. The action may be brought in the United States district court for the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action

may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

(d) CIVIL ACTIONS BY STATES.—(1) When a person violates this chapter or a regulation prescribed or order issued under this chapter, the chief law enforcement officer of the State in which the violation occurs may bring a civil action—

(A) to enjoin the violation; or

(B) to recover amounts for which the person is liable under section 32710 of this title for each person on whose behalf the action is brought.

(2) An action under this subsection may be brought in an appropriate United States district court or in a State court of competent jurisdiction. The action must be brought not later than 2 years after the claim accrues.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1054.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32709(a)	15:1988(b) (related to violating rules).	Oct. 20, 1972, Pub. L. 92–513, §408(b) (related to violating rules), 86 Stat. 963; restated July 14, 1976, Pub. L. 94–364, §406, 90 Stat. 983.
	15:1990b.	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §§412, 413; added July 14, 1976, Pub. L. 94–364, §408(2), 90 Stat. 984; Oct. 28, 1986, Pub. L. 99–579, §3, 100 Stat. 3311.
32709(b)	15:1988(b) (related to violating rules). 15:1990c.	
32709(c)	15:1990.	Oct. 20, 1972, Pub. L. 92–513, §410, 86 Stat. 963; restated July 14, 1976, Pub. L. 94–364, §407, 90 Stat. 984.
32709(d)	15:1990a.	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §411; added July 14, 1976, Pub. L. 94–364, §408(2), 90 Stat. 984.

In subsection (a)(1), the words ''that violates this chapter'' are substituted for ''who commits any act or causes to be done any act that violates any provision of this subchapter or omits to do any act or causes to be omitted any act that is required by any such provision'' in 15:1990b(a) for consistency and to eliminate unnecessary words. The words ''or a regulation prescribed or order issued under this chapter'' are substituted for ''No transferor shall violate any rule prescribed under this section'' in 15:1988 for consistency in the revised title and because ''rule'' is synonymous with ''regulations''. The words ''A separate violation occurs for each motor vehicle or device involved in the violation'' are substituted for ''A violation of any such provision shall, for purposes of this section, constitute a separate violation with respect to each motor vehicle or device involved'' in 15:1990b(a) to eliminate unnecessary words.

In subsection (a)(2), the words ''on behalf of the United States'' are omitted as surplus. The words ''Before compromising the amount of a penalty, the Secretary shall give'' are substituted for ''after affording'' for clarity. The words ''to present views and evidence in support thereof'' and ''alleged'' are omitted as surplus.

In subsection (b), the words ''that knowingly and willfully violates this chapter'' are substituted for ''knowingly and willfully commits any act or causes to be done any act that violates any provision of this subchapter or knowingly and willfully omits to do any act or causes to be omitted any act that is required by such provision'' to eliminate unnecessary words. The words ''or a regulation prescribed or order issued under this chapter'' are substituted for ''No transferor shall violate any rule prescribed under this section'' in 15:1988 for consistency in the revised title and because ''rule'' is synonymous with ''regulation''. The words ''fined under title 18'' are substituted for ''fined not more than $50,000'' for consistency with title 18. The words ''an act in violation of'' are substituted for ''any of the acts or practices constituting in whole or in part a violation of'' to eliminate unnecessary words.

In subsections (c) and (d), the word ''enjoin'' is substituted for ''restrain'' for consistency.

In subsection (c), the words ''The United States district courts shall have jurisdiction'' are omitted because of 28:1331. The words ''for cause shown and subject to the provisions of rule 65(a) and (b) of the Federal Rules of Civil Procedure'' are omitted as surplus because the rules apply in the absence of an exemption from them. The words ''the violation occurred'' are substituted for ''wherein any act, omission, or transaction constituting the violation occurred'', and the word ''resides'' is substituted for ''is an inhabitant'', to eliminate unnecessary words. The words ''may be served in'' are substituted for ''may run into'' for clarity.

In subsection (d)(1), before clause (A), the words ''this chapter or a regulation prescribed or order issued under this chapter'' are substituted for ''requirement imposed under this subchapter'' for consistency. The words ''civil action'' are substituted for ''any action'' for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (d)(2), the words ''without regard to the amount in controversy'' are omitted because jurisdiction is now allowed under 28:1331 without regard to the amount in controversy. The words ''United States district court'' are substituted for ''district court of the United States'' for consistency with the definition in section 32101 of the revised title and with other provisions of the chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32705 of this title.

§ 32710. Civil actions by private persons

(a) VIOLATION AND AMOUNT OF DAMAGES.—A person that violates this chapter or a regulation prescribed or order issued under this chapter, with intent to defraud, is liable for 3 times the actual damages or $1,500, whichever is greater.

(b) CIVIL ACTIONS.—A person may bring a civil action to enforce a claim under this section in an appropriate United States district court or in another court of competent jurisdiction. The action must be brought not later than 2 years after the claim accrues. The court shall award costs and a reasonable attorney's fee to the person when a judgment is entered for that person.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1055.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32710(a)	15:1989(a)(1).	Oct. 20, 1972, Pub. L. 92–513, §409, 86 Stat. 963.
32710(b)	15:1989(a)(2), (b).	

In subsection (a), the words ''this chapter or a regulation prescribed or order issued under this chapter'' are substituted for ''requirement imposed under this subchapter'' for consistency.

In subsection (b), the words ''A person may bring a civil action to enforce a claim'' are substituted for ''An action to enforce any liability created . . . may be

brought'' for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The word ''appropriate'' is added for clarity. The words ''without regard to the amount in controversy'' are omitted because jurisdiction is now allowed under 28:1331 without regard to the amount in controversy. The words ''after the claim accrues'' are substituted for ''from the date on which the liability arises'' to eliminate unnecessary words. The words ''The court shall award . . . to the person when a judgment is entered for that person'' are substituted for ''in the case of any successful action to enforce the foregoing liability . . . as determined by the court'' for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32709 of this title.

§ 32711. Relationship to State law

Except to the extent that State law is inconsistent with this chapter, this chapter does not—

(1) affect a State law on disconnecting, altering, or tampering with an odometer with intent to defraud; or

(2) exempt a person from complying with that law.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1056.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32711	15:1991.	Oct. 20, 1972, Pub. L. 92–513, § 418, 86 Stat. 963; July 14, 1976, Pub. L. 94–364, § 408(1), 90 Stat. 984.

In this section, before clause (1), the words ''and then only to the extent of the inconsistency'' are omitted as surplus. In clause (1), the word ''affect'' is substituted for ''annul, alter, or affect'' to eliminate unnecessary words. In clause (2), the words ''subject to the provisions of this subchapter'' are omitted as surplus.

CHAPTER 329—AUTOMOBILE FUEL ECONOMY

Sec.
32901. Definitions.
32902. Average fuel economy standards.
32903. Credits for exceeding average fuel economy standards.
32904. Calculation of average fuel economy.
32905. Manufacturing incentives for alternative fuel automobiles.
32906. Maximum fuel economy increase for alternative fuel automobiles.
32907. Reports and tests of manufacturers.
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32910. Administrative.
32911. Compliance.
32912. Civil penalties.
32913. Compromising and remitting civil penalties.
32914. Collecting civil penalties.
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32916. Reports to Congress.
32917. Standards for executive agency automobiles.
32918. Retrofit devices.
32919. Preemption.

AMENDMENTS

1994—Pub. L. 103–429, § 6(43)(C), Oct. 31, 1994, 108 Stat. 4383, added items 32918 and 32919 and struck out former item 32918 ''Preemption''.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 32101, 33104 of this title; title 18 section 2721.

§ 32901. Definitions

(a) GENERAL.—In this chapter—

(1) ''alternative fuel'' means—

(A) methanol;

(B) denatured ethanol;

(C) other alcohols;

(D) except as provided in subsection (b) of this section, a mixture containing at least 85 percent of methanol, denatured ethanol, and other alcohols by volume with gasoline or other fuels;

(E) natural gas;

(F) liquefied petroleum gas;

(G) hydrogen;

(H) coal derived liquid fuels;

(I) fuels (except alcohol) derived from biological materials;

(J) electricity (including electricity from solar energy); and

(K) any other fuel the Secretary of Transportation prescribes by regulation that is not substantially petroleum and that would yield substantial energy security and environmental benefits.

(2) ''alternative fueled automobile'' means an automobile that is a—

(A) dedicated automobile; or

(B) dual fueled automobile.

(3) except as provided in section 32908 of this title, ''automobile'' means a 4-wheeled vehicle that is propelled by fuel, or by alternative fuel, manufactured primarily for use on public streets, roads, and highways (except a vehicle operated only on a rail line), and rated at—

(A) not more than 6,000 pounds gross vehicle weight; or

(B) more than 6,000, but less than 10,000, pounds gross vehicle weight, if the Secretary decides by regulation that—

(i) an average fuel economy standard under this chapter for the vehicle is feasible; and

(ii) an average fuel economy standard under this chapter for the vehicle will result in significant energy conservation or the vehicle is substantially used for the same purposes as a vehicle rated at not more than 6,000 pounds gross vehicle weight.

(4) ''automobile manufactured by a manufacturer'' includes every automobile manufactured by a person that controls, is controlled by, or is under common control with the manufacturer, but does not include an automobile manufactured by the person that is exported not later than 30 days after the end of the model year in which the automobile is manufactured.

(5) ''average fuel economy'' means average fuel economy determined under section 32904 of this title.

(6) ''average fuel economy standard'' means a performance standard specifying a minimum level of average fuel economy applicable to a manufacturer in a model year.

(7) ''dedicated automobile'' means an automobile that operates only on alternative fuel.

(8) ''dual fueled automobile'' means an automobile that—

(A) is capable of operating on alternative fuel and on gasoline or diesel fuel;

(B) provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the United States Government, when operating on alternative fuel as when operating on gasoline or diesel fuel;

(C) for model years 1993–1995 for an automobile capable of operating on a mixture of an alternative fuel and gasoline or diesel fuel and if the Administrator of the Environmental Protection Agency decides to extend the application of this subclause, for an additional period ending not later than the end of the last model year to which section 32905(b) and (d) of this title applies, provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the Government, when operating on a mixture of alternative fuel and gasoline or diesel fuel containing exactly 50 percent gasoline or diesel fuel as when operating on gasoline or diesel fuel; and

(D) for a passenger automobile, meets or exceeds the minimum driving range prescribed under subsection (c) of this section.

(9) ''fuel'' means—

(A) gasoline;

(B) diesel oil; or

(C) other liquid or gaseous fuel that the Secretary decides by regulation to include in this definition as consistent with the need of the United States to conserve energy.

(10) ''fuel economy'' means the average number of miles traveled by an automobile for each gallon of gasoline (or equivalent amount of other fuel) used, as determined by the Administrator under section 32904(c) of this title.

(11) ''import'' means to import into the customs territory of the United States.

(12) ''manufacture'' (except under section 32902(d) of this title) means to produce or assemble in the customs territory of the United States or to import.

(13) ''manufacturer'' means—

(A) a person engaged in the business of manufacturing automobiles, including a predecessor or successor of the person to the extent provided under regulations prescribed by the Secretary; and

(B) if more than one person is the manufacturer of an automobile, the person specified under regulations prescribed by the Secretary.

(14) ''model'' means a class of automobiles as decided by regulation by the Administrator after consulting and coordinating with the Secretary.

(15) ''model year'', when referring to a specific calendar year, means—

(A) the annual production period of a manufacturer, as decided by the Administrator, that includes January 1 of that calendar year; or

(B) that calendar year if the manufacturer does not have an annual production period.

(16) ''passenger automobile'' means an automobile that the Secretary decides by regulation is manufactured primarily for transporting not more than 10 individuals, but does not include an automobile capable of off-highway operation that the Secretary decides by regulation—

(A) has a significant feature (except 4-wheel drive) designed for off-highway operation; and

(B) is a 4-wheel drive automobile or is rated at more than 6,000 pounds gross vehicle weight.

(b) AUTHORITY TO CHANGE PERCENTAGE.—The Secretary may prescribe regulations changing the percentage referred to in subsection (a)(1)(D) of this section to not less than 70 percent because of requirements relating to cold start, safety, or vehicle functions.

(c) MINIMUM DRIVING RANGES FOR DUAL FUELED PASSENGER AUTOMOBILES.—(1) The Secretary shall prescribe by regulation the minimum driving range that dual fueled automobiles that are passenger automobiles must meet when operating on alternative fuel to be dual fueled automobiles under sections 32905 and 32906 of this title. A determination whether a dual fueled automobile meets the minimum driving range requirement under this paragraph shall be based on the combined Agency city/highway fuel economy as determined for average fuel economy purposes for those automobiles.

(2)(A) The Secretary may prescribe a lower range for a specific model than that prescribed under paragraph (1) of this subsection. A manufacturer may petition for a lower range than that prescribed under paragraph (1) for a specific model.

(B) The minimum driving range prescribed for dual fueled automobiles (except electric automobiles) under subparagraph (A) of this paragraph or paragraph (1) of this subsection must be at least 200 miles.

(C) If the Secretary prescribes a minimum driving range of 200 miles for dual fueled automobiles (except electric automobiles) under paragraph (1) of this subsection, subparagraph (A) of this paragraph does not apply to dual fueled automobiles (except electric automobiles).

(3) In prescribing a minimum driving range under paragraph (1) of this subsection and in taking an action under paragraph (2) of this subsection, the Secretary shall consider the purpose set forth in section 3 of the Alternative Motor Fuels Act of 1988 (Public Law 100–494, 102 Stat. 2442), consumer acceptability, economic practicability, technology, environmental impact, safety, drivability, performance, and other factors the Secretary considers relevant.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1056.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32901(a)(1) ...	15:2013(h)(1)(A) (less words in 1st parentheses).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 513(h); added Oct. 14, 1988, Pub. L. 100–494, § 6(a), 102 Stat. 2450; Oct. 24, 1992, Pub. L. 102–486, § 403(5)(H), (I), 106 Stat. 2878.
32901(a)(2) ...	15:2013(h)(1)(B).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32901(a)(3) ...	15:2001(1).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §501(1); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 901; Oct. 14, 1988, Pub. L. 100–494, §6(b), 102 Stat. 2452; Oct. 24, 1992, Pub. L. 102–486, §403(1), 106 Stat. 2876.
	15:2001(13), (14).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §§501(2)–(7), (10)–(14), 503(c); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 901, 902, 907.
32901(a)(4) ...	15:2003(c).	
32901(a)(5) ...	15:2001(4).	
32901(a)(6) ...	15:2001(7).	
32901(a)(7) ...	15:2013(h)(1)(C).	
32901(a)(8) ...	15:2001(h)(1)(D).	
32901(a)(9) ...	15:2001(5).	
32901(a)(10) ..	15:2001(6).	
32901(a)(11) ..	15:2001(10).	
32901(a)(12) ..	15:2001(9).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §501(8), (9); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 902; Oct. 10, 1980, Pub. L. 96–425, §§4(c)(1), 8(b), 94 Stat. 1824, 1828.
32901(a)(13) ..	15:2001(8).	
32901(a)(14) ..	15:2001(11).	
32901(a)(15) ..	15:2001(12).	
32901(a)(16) ..	15:2001(2), (3).	
32901(b)	15:2013(h)(1)(A) (words in 1st parentheses).	
32901(c)(1) ...	15:2013(h)(2)(A).	
32901(c)(2) ...	15:2013(h)(2)(B), (C).	
32901(c)(3) ...	15:2013(h)(2)(D).	

In this chapter, the word ''model'' is substituted for ''model type'' for consistency in this part.

In subsection (a)(3), before clause (A), the words ''except as provided in section 32908 of this title'' are added for clarity. The word ''line'' is added for consistency in the revised title and with other titles of the United States Code. The words ''or rails'' are omitted because of 1:1. The text of 15:2001(1) (last sentence) is omitted because of 49:322(a). The text of 15:2001(13) and (14) is omitted as surplus because the complete names of the Secretary of Transportation and Administrator of the Environmental Protection Agency are used the first time the terms appear in a section. The text of 15:2001 (related to 15:2011) is omitted because 15:2011 is outside the scope of the restatement. See section 4(c) of the bill.

In subsection (a)(4), the words '' 'automobile manufactured by a manufacturer' includes'' are substituted for ''Any reference in this subchapter to automobiles manufactured by a manufacturer shall be deemed—(1) to include'' to eliminate unnecessary words. The word ''every'' is substituted for ''all'' because of the restatement. The words ''but does not include'' are substituted for ''to exclude'' for consistency. The words ''manufactured by the person'' are substituted for ''manufactured (within the meaning of paragraph (1))'' to eliminate unnecessary words.

In subsection (a)(10), the words ''in accordance with procedures established'' are omitted as surplus.

In subsection (a)(14), the word ''particular'' is omitted as surplus.

Subsection (a)(15)(B) is substituted for ''If a manufacturer has no annual production period, the term 'model year' means the calendar year'' to eliminate unnecessary words.

In subsection (a)(16), before clause (A), the words ''but does not include an automobile capable of off-highway operation that'' are substituted for ''(other than an automobile capable of off-highway operation)'' and ''The term 'automobile capable of off-highway operation' means any automobile which'' to eliminate unnecessary words.

In subsection (b), the words ''The Secretary may prescribe regulations changing the percentage . . . to not less than 70 percent because of'' are substituted for ''but not less than 70 percent, as determined by the Secretary, by rule, to provide for'' for clarity and because of the restatement.

In subsection (c)(1), the words ''For purposes of the definitions in paragraph (1)(D)'' are omitted as unnecessary because of the restatement. The words ''within 18 months after October 14, 1988'' are omitted as obsolete. The words ''prescribe by regulation'' are substituted for ''establish by rule of general applicability'' for clarity and consistency in the revised title and with other titles of the United States Code and because ''rule'' is synonymous with ''regulation''. The words ''that are passenger automobiles'' are substituted for ''The rule issued under this subparagraph shall apply only to dual fueled automobiles that are passenger automobiles'' to eliminate unnecessary words.

REFERENCES IN TEXT

Section 3 of the Alternative Motor Fuels Act of 1988, referred to in subsec. (c)(3), is section 3 of Pub. L. 100–494, which is set out as a note under section 6374 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30501, 32906, 32908, 32909, 33101 of this title; title 15 section 2011; title 26 section 4064; title 42 sections 6291, 6374, 13211.

§ 32902. Average fuel economy standards

(a) NON-PASSENGER AUTOMOBILES.—At least 18 months before the beginning of each model year, the Secretary of Transportation shall prescribe by regulation average fuel economy standards for automobiles (except passenger automobiles) manufactured by a manufacturer in that model year. Each standard shall be the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year. The Secretary may prescribe separate standards for different classes of automobiles.

(b) PASSENGER AUTOMOBILES.—Except as provided in this section, the average fuel economy standard for passenger automobiles manufactured by a manufacturer in a model year after model year 1984 shall be 27.5 miles a gallon.

(c) AMENDING PASSENGER AUTOMOBILE STANDARDS.—(1) Subject to paragraph (2) of this subsection, the Secretary of Transportation may prescribe regulations amending the standard under subsection (b) of this section for a model year to a level that the Secretary decides is the maximum feasible average fuel economy level for that model year. Section 553 of title 5 applies to a proceeding to amend the standard. However, any interested person may make an oral presentation and a transcript shall be taken of that presentation.

(2) If an amendment increases the standard above 27.5 miles a gallon or decreases the standard below 26.0 miles a gallon, the Secretary of Transportation shall submit the amendment to Congress. The procedures of section 551 of the Energy Policy and Conservation Act (42 U.S.C. 6421) apply to an amendment, except that the 15 calendar days referred to in section 551(c) and (d) of the Act (42 U.S.C. 6421(c), (d)) are deemed to be 60 calendar days, and the 5 calendar days referred to in section 551(f)(4)(A) of the Act (42 U.S.C. 6421(f)(4)(A)) are deemed to be 20 calendar days. If either House of Congress disapproves the amendment under those procedures, the amendment does not take effect.

(d) EXEMPTIONS.—(1) Except as provided in paragraph (3) of this subsection, on application of a manufacturer that manufactured (whether in the United States or not) fewer than 10,000 passenger automobiles in the model year 2 years before the model year for which the application is made, the Secretary of Transportation may exempt by regulation the manufacturer from a standard under subsection (b) or (c) of this section. An exemption for a model year applies only if the manufacturer manufactures (whether in the United States or not) fewer than 10,000 passenger automobiles in the model year. The Secretary may exempt a manufacturer only if the Secretary—

(A) finds that the applicable standard under those subsections is more stringent than the maximum feasible average fuel economy level that the manufacturer can achieve; and

(B) prescribes by regulation an alternative average fuel economy standard for the passenger automobiles manufactured by the exempted manufacturer that the Secretary decides is the maximum feasible average fuel economy level for the manufacturers to which the alternative standard applies.

(2) An alternative average fuel economy standard the Secretary of Transportation prescribes under paragraph (1)(B) of this subsection may apply to an individually exempted manufacturer, to all automobiles to which this subsection applies, or to classes of passenger automobiles, as defined under regulations of the Secretary, manufactured by exempted manufacturers.

(3) Notwithstanding paragraph (1) of this subsection, an importer registered under section 30141(c) of this title may not be exempted as a manufacturer under paragraph (1) for a motor vehicle that the importer—

(A) imports; or

(B) brings into compliance with applicable motor vehicle safety standards prescribed under chapter 301 of this title for an individual under section 30142 of this title.

(4) The Secretary of Transportation may prescribe the contents of an application for an exemption.

(e) EMERGENCY VEHICLES.—(1) In this subsection, ''emergency vehicle'' means an automobile manufactured primarily for use—

(A) as an ambulance or combination ambulance-hearse;

(B) by the United States Government or a State or local government for law enforcement; or

(C) for other emergency uses prescribed by regulation by the Secretary of Transportation.

(2) A manufacturer may elect to have the fuel economy of an emergency vehicle excluded in applying a fuel economy standard under subsection (a), (b), (c), or (d) of this section. The election is made by providing written notice to the Secretary of Transportation and to the Administrator of the Environmental Protection Agency.

(f) CONSIDERATIONS ON DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.—When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy.

(g) REQUIREMENTS FOR OTHER AMENDMENTS.—(1) The Secretary of Transportation may prescribe regulations amending an average fuel economy standard prescribed under subsection (a) or (d) of this section if the amended standard meets the requirements of subsection (a) or (d), as appropriate.

(2) When the Secretary of Transportation prescribes an amendment under this section that makes an average fuel economy standard more stringent, the Secretary shall prescribe the amendment (and submit the amendment to Congress when required under subsection (c)(2) of this section) at least 18 months before the beginning of the model year to which the amendment applies.

(h) LIMITATIONS.—In carrying out subsections (c), (f), and (g) of this section, the Secretary of Transportation—

(1) may not consider the fuel economy of dedicated automobiles; and

(2) shall consider dual fueled automobiles to be operated only on gasoline or diesel fuel.

(i) CONSULTATION.—The Secretary of Transportation shall consult with the Secretary of Energy in carrying out this section and section 32903 of this title.

(j) SECRETARY OF ENERGY COMMENTS.—(1) Before issuing a notice proposing to prescribe or amend an average fuel economy standard under subsection (a), (c), or (g) of this section, the Secretary of Transportation shall give the Secretary of Energy at least 10 days from the receipt of the notice during which the Secretary of Energy may, if the Secretary of Energy concludes that the proposed standard would adversely affect the conservation goals of the Secretary of Energy, provide written comments to the Secretary of Transportation about the impact of the standard on those goals. To the extent the Secretary of Transportation does not revise a proposed standard to take into account comments of the Secretary of Energy on any adverse impact of the standard, the Secretary of Transportation shall include those comments in the notice.

(2) Before taking final action on a standard or an exemption from a standard under this section, the Secretary of Transportation shall notify the Secretary of Energy and provide the Secretary of Energy a reasonable time to comment.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1059.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32902(a)	15:2002(b).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 502(a)(1), (3)–(c), (e) (1st sentence), (f), (h); added Dec. 22, 1975, Pub. L. 94–163, § 301, 89 Stat. 902, 903, 905; Oct. 10, 1980, Pub. L. 96–425, §§ 3(a)(1), 7, 8(c), 94 Stat. 1821, 1828.
32902(b)	15:2002(a)(1), (3).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32902(c)(1) ..	15:2002(a)(4) (words before 5th comma), (h).	
32902(c)(2) ..	15:2002(a)(4) (words after 5th comma), (5).	
32902(d)	15:1397 (note).	Oct. 31, 1988, Pub. L. 100–562, §2(f), 102 Stat. 2825.
	15:2002(c).	
32902(e)	15:2002(g).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §502(g); added Oct. 10, 1980, Pub. L. 96–425, §7, 94 Stat. 1828.
32902(f)	15:2002(e) (1st sentence).	
32902(g)	15:2002(f).	
32902(h)	15:2002(e) (last sentence).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §§502(e) (last sentence), 513(g)(2)(B); added Oct. 14, 1988, Pub. L. 100–494, §6(a), (c), 102 Stat. 2450, 2452; Oct. 24, 1992, Pub. L. 102–486, §403(2), (5)(G)(ii)(II), (III), 106 Stat. 2876, 2878.
	15:2013(g)(2)(B).	
32902(i)	15:2002(i) (1st sentence).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §502(i), (j); added Aug. 4, 1977, Pub. L. 95–91, §305, 91 Stat. 580; Oct. 10, 1980, Pub. L. 96–425, §7, 94 Stat. 1828.
32902(j)	15:2002(i) (2d, last sentences), (j).	

In subsection (a), the words ''Any standard applicable to a model year under this subsection shall be prescribed'' are omitted as surplus. The words ''which begins more than 30 months after December 22, 1975'' are omitted as executed.

In subsection (b), the text of 15:2002(a)(1) (related to model years before 1985) and (3) is omitted as expired. The words ''at least'' are omitted as unnecessary because of the source provisions restated in subsection (c) of this section.

In subsection (c)(1), the words ''Subject to paragraph (2) of this subsection'' are added for clarity. The words ''may prescribe regulations amending'' are substituted for ''may, by rule, amend'' for clarity and consistency in the revised title and because ''rule'' is synonymous with ''regulation''. The words ''for a model year'' are substituted for ''for model year 1985, or for any subsequent model year'' to eliminate the expired limitation. The reference in 15:2002(h) to 15:2002(d) is omitted because 15:2002(d) is omitted from the revised title as executed. The words ''as well as written'' are omitted as surplus.

In subsection (c)(2), the words ''If an amendment increases the standard . . . or decreases the standard'' are substituted for ''except that any amendment that has the effect of increasing . . . a standard . . ., or of decreasing . . . a standard'' to eliminate unnecessary words. The words ''For purposes of considering any modification which is submitted to the Congress under paragraph (4)'' are omitted as surplus. The words ''are deemed to be'' are substituted for ''shall be lengthened to'' for clarity and consistency.

In subsection (d)(1), before clause (A), the words ''Except as provided in paragraph (3) of this subsection'' are added because of the restatement. The words ''in the model year 2 years before'' are substituted for ''in the second model year preceding'' for clarity. The words ''The Secretary may exempt a manufacturer only if the Secretary'' are substituted for ''Such exemption may only be granted if the Secretary'' and ''The Secretary may not issue exemptions with respect to a model year unless he'' to eliminate unnecessary words. The words ''each such standard shall be set at a level which'' are omitted as surplus.

In subsection (d)(3), before clause (A), the words ''Notwithstanding paragraph (1) of this subsection'' are substituted for ''Notwithstanding any provision of law authorizing exemptions from energy conservation requirements for manufacturers of fewer than 10,000 motor vehicles'' to eliminate unnecessary words. In clause (B), the word ''compliance'' is substituted for ''conformity'' for consistency with chapter 301 of the revised title. The words ''prescribed under chapter 301 of this title'' are substituted for ''Federal'' for consistency in the revised title.

Subsection (d)(4) is substituted for 15:2002(c)(1) (2d sentence) to eliminate unnecessary words. The text of 15:2002(c)(2) is omitted as expired.

In subsection (e)(1)(B), the words ''police or other'' are omitted as unnecessary because the authority to prescribe standards includes the authority to amend those standards.

In subsection (g)(1), the words ''from time to time'' are omitted as unnecessary. The cross-reference to 15:2002(a)(3) is omitted as executed because 15:2002(a)(3) applied to model years 1981–1984.

In subsection (g)(2), the words ''that makes'' are substituted for ''has the effect of making'' to eliminate unnecessary words.

In subsection (i), the words ''his responsibilities under'' are omitted as surplus.

In subsection (j), the reference to 15:2002(d) and the words ''or any modification of'' are omitted because 15:2002(d) is omitted from the revised title as executed.

In subsection (j)(1), the words ''to prescribe or amend'' are substituted for ''to establish, reduce, or amend'' to eliminate unnecessary words. The words ''adverse impact'' are substituted for ''level'' for clarity and consistency. The words ''those comments'' are substituted for ''unaccommodated comments'' for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 32901, 32903, 32904, 32907, 32909, 32911, 32912, 32917 of this title.

§ 32903. Credits for exceeding average fuel economy standards

(a) EARNING AND PERIOD FOR APPLYING CREDITS.—When the average fuel economy of passenger automobiles manufactured by a manufacturer in a particular model year exceeds an applicable average fuel economy standard under section 32902(b)–(d) of this title (determined by the Secretary of Transportation without regard to credits under this section), the manufacturer earns credits. The credits may be applied to—

(1) any of the 3 consecutive model years immediately before the model year for which the credits are earned; and

(2) to the extent not used under clause (1) of this subsection, any of the 3 consecutive model years immediately after the model year for which the credits are earned.

(b) PERIOD OF AVAILABILITY AND PLAN FOR FUTURE CREDITS.—(1) Except as provided in paragraph (2) of this subsection, credits under this section are available to a manufacturer at the end of the model year in which earned.

(2)(A) Before the end of a model year, if a manufacturer has reason to believe that its average fuel economy for passenger automobiles will be less than the applicable standard for that model year, the manufacturer may submit a plan to the Secretary of Transportation demonstrating that the manufacturer will earn sufficient credits under this section within the next 3 model years to allow the manufacturer to meet that standard for the model year involved. Unless the Secretary finds that the manufacturer is unlikely to earn sufficient credits under the plan, the Secretary shall approve the plan. Those credits are available for the model year involved if—

(i) the Secretary approves the plan; and

(ii) the manufacturer earns those credits as provided by the plan.

(B) If the average fuel economy of a manufacturer is less than the applicable standard under section 32902(b)–(d) of this title after applying credits under subsection (a)(1) of this section, the Secretary of Transportation shall notify the manufacturer and give the manufacturer a reasonable time (of at least 60 days) to submit a plan.

(c) DETERMINING NUMBER OF CREDITS.—The number of credits a manufacturer earns under this section equals the product of—

(1) the number of tenths of a mile a gallon by which the average fuel economy of the passenger automobiles manufactured by the manufacturer in the model year in which the credits are earned exceeds the applicable average fuel economy standard under section 32902(b)–(d) of this title; times

(2) the number of passenger automobiles manufactured by the manufacturer during that model year.

(d) APPLYING CREDITS FOR PASSENGER AUTOMOBILES.—The Secretary of Transportation shall apply credits to a model year on the basis of the number of tenths of a mile a gallon by which the manufacturer involved was below the applicable average fuel economy standard for that model year and the number of passenger automobiles manufactured that model year by the manufacturer. Credits applied to a model year are no longer available for another model year. Before applying credits, the Secretary shall give the manufacturer written notice and reasonable opportunity to comment.

(e) APPLYING CREDITS FOR NON-PASSENGER AUTOMOBILES.—Credits for a manufacturer of automobiles that are not passenger automobiles are earned and applied to a model year in which the average fuel economy of that class of automobiles is below the applicable average fuel economy standard under section 32902(a) of this title, to the same extent and in the same way as provided in this section for passenger automobiles.

(f) REFUND OF COLLECTED PENALTY.—When a civil penalty has been collected under this chapter from a manufacturer that has earned credits under this section, the Secretary of the Treasury shall refund to the manufacturer the amount of the penalty to the extent the penalty is attributable to credits available under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1061.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32903(a)	15:2002(*l*)(1)(B), (4).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §502(*l*); added Oct. 10, 1980, Pub. L. 96–425, §6(b), 94 Stat. 1826.
32903(b)(1) ..	15:2002(*l*)(1)(A).	
32903(b)(2) ..	15:2002(*l*)(1)(C).	
32903(c)	15:2002(*l*)(1)(D).	
32903(d)	15:2002(*l*)(1)(E).	
32903(e)	15:2002(*l*)(2).	
32903(f)	15:2002(*l*)(3).	

In this section, various forms of the words ''apply credits'' are substituted for various forms of ''credits are available to be taken into account'' to be more concise and to make more clear the distinction between when credits are available and to what years they may be applied.

In subsection (a), before clause (1), the text of 15:2002(*l*)(4) is omitted as surplus because of 49:322(a). The words ''any adjustment under subsection (d) of this section'' are omitted because 15:2002(d) is omitted from the revised title as executed. The words ''calculated under subparagraph (C)'' (which apparently should be ''calculated under subparagraph (D)'') are omitted as surplus. In clauses (1) and (2), the words ''with respect to the average fuel economy of that manufacturer'' are omitted as surplus. The words ''year for which the credits are earned'' are substituted for ''year in which such manufacturer exceeds such applicable average fuel economy standard'' to eliminate unnecessary words.

Subsection (b)(1) is substituted for 15:2002(*l*)(1)(A) to eliminate unnecessary words.

In subsection (b)(2)(A) is substituted for 15:2002(*l*)(1)(C)(i)–(iii) to eliminate unnecessary words.

In subsection (e), the words ''as provided in this section for passenger automobiles'' are substituted for ''as provided for under paragraph (1)'' for clarity. The text of 15:2002(*l*)(2) (last sentence) is omitted as expired.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 32902, 32904, 32909, 32911, 32912 of this title.

§ 32904. Calculation of average fuel economy

(a) METHOD OF CALCULATION.—(1) The Administrator of the Environmental Protection Agency shall calculate the average fuel economy of a manufacturer subject to—

(A) section 32902(a) of this title in a way prescribed by the Administrator; and

(B) section 32902(b)–(d) of this title by dividing—

(i) the number of passenger automobiles manufactured by the manufacturer in a model year; by

(ii) the sum of the fractions obtained by dividing the number of passenger automobiles of each model manufactured by the manufacturer in that model year by the fuel economy measured for that model.

(2)(A) In this paragraph, ''electric vehicle'' means a vehicle powered primarily by an electric motor drawing electrical current from a portable source.

(B) If a manufacturer manufactures an electric vehicle, the Administrator shall include in the calculation of average fuel economy under paragraph (1) of this subsection equivalent petroleum based fuel economy values determined by the Secretary of Energy for various classes of electric vehicles. The Secretary shall review those values each year and determine and propose necessary revisions based on the following factors:

(i) the approximate electrical energy efficiency of the vehicle, considering the kind of vehicle and the mission and weight of the vehicle.

(ii) the national average electrical generation and transmission efficiencies.

(iii) the need of the United States to conserve all forms of energy and the relative scarcity and value to the United States of all fuel used to generate electricity.

(iv) the specific patterns of use of electric vehicles compared to petroleum-fueled vehicles.

(b) SEPARATE CALCULATIONS FOR PASSENGER AUTOMOBILES MANUFACTURED DOMESTICALLY AND NOT DOMESTICALLY.—(1)(A) Except as provided in paragraphs (6) and (7) of this subsection, the Administrator shall make separate calculations under subsection (a)(1)(B) of this section for—

(i) passenger automobiles manufactured domestically by a manufacturer (or included in this category under paragraph (5) of this subsection); and

(ii) passenger automobiles not manufactured domestically by that manufacturer (or excluded from this category under paragraph (5) of this subsection).

(B) Passenger automobiles described in subparagraph (A)(i) and (ii) of this paragraph are deemed to be manufactured by separate manufacturers under this chapter.

(2) In this subsection (except as provided in paragraph (3)), a passenger automobile is deemed to be manufactured domestically in a model year if at least 75 percent of the cost to the manufacturer is attributable to value added in the United States or Canada, unless the assembly of the automobile is completed in Canada and the automobile is imported into the United States more than 30 days after the end of the model year.

(3)(A) In this subsection, a passenger automobile is deemed to be manufactured domestically in a model year, as provided in subparagraph (B) of this paragraph, if at least 75 percent of the cost to the manufacturer is attributable to value added in the United States, Canada, or Mexico, unless the assembly of the automobile is completed in Canada or Mexico and the automobile is imported into the United States more than 30 days after the end of the model year.

(B) Subparagraph (A) of this paragraph applies to automobiles manufactured by a manufacturer and sold in the United States, regardless of the place of assembly, as follows:

(i) A manufacturer that began assembling automobiles in Mexico before model year 1992 may elect, during the period from January 1, 1997, through January 1, 2004, to have subparagraph (A) of this paragraph apply to all automobiles manufactured by that manufacturer beginning with the model year that begins after the date of the election.

(ii) For a manufacturer that began assembling automobiles in Mexico after model year 1991, subparagraph (A) of this paragraph applies to all automobiles manufactured by that manufacturer beginning with the model year that begins after January 1, 1994, or the model year beginning after the date the manufacturer begins assembling automobiles in Mexico, whichever is later.

(iii) A manufacturer not described in clause (i) or (ii) of this subparagraph that assembles automobiles in the United States or Canada, but not in Mexico, may elect, during the period from January 1, 1997, through January 1, 2004, to have subparagraph (A) of this paragraph apply to all automobiles manufactured by that manufacturer beginning with the model year that begins after the date of the election. However, if the manufacturer begins assembling automobiles in Mexico before making an election under this subparagraph, this clause does not apply, and the manufacturer is subject to clause (ii) of this subparagraph.

(iv) For a manufacturer that does not assemble automobiles in the United States, Canada, or Mexico, subparagraph (A) of this paragraph applies to all automobiles manufactured by that manufacturer beginning with the model year that begins after January 1, 1994.

(v) For a manufacturer described in clause (i) or (iii) of this subparagraph that does not make an election within the specified period, subparagraph (A) of this paragraph applies to all automobiles manufactured by that manufacturer beginning with the model year that begins after January 1, 2004.

(C) The Secretary of Transportation shall prescribe reasonable procedures for elections under subparagraph (B) of this paragraph.

(4) In this subsection, the fuel economy of a passenger automobile that is not manufactured domestically is deemed to be equal to the average fuel economy of all passenger automobiles manufactured by the same manufacturer that are not manufactured domestically.

(5)(A) A manufacturer may submit to the Secretary of Transportation for approval a plan, including supporting material, stating the actions and the deadlines for taking the actions, that will ensure that the model or models referred to in subparagraph (B) of this paragraph will be manufactured domestically before the end of the 4th model year covered by the plan. The Secretary promptly shall consider and act on the plan. The Secretary shall approve the plan unless—

(i) the Secretary finds that the plan is inadequate to meet the requirements of this paragraph; or

(ii) the manufacturer previously has submitted a plan approved by the Secretary under this paragraph.

(B) If the plan is approved, the Administrator shall include under paragraph (1)(A)(i) and exclude under paragraph (1)(A)(ii) of this subsection, for each of the 4 model years covered by the plan, not more than 150,000 passenger automobiles manufactured by that manufacturer but not qualifying as domestically manufactured if—

(i) the model or models involved previously have not been manufactured domestically;

(ii) at least 50 percent of the cost to the manufacturer of each of the automobiles is attributable to value added in the United States or Canada;

(iii) the automobiles, if their assembly was completed in Canada, are imported into the United States not later than 30 days after the end of the model year; and

(iv) the model or models are manufactured domestically before the end of the 4th model year covered by the plan.

(6)(A) A manufacturer may file with the Secretary of Transportation a petition for an exemption from the requirement of separate calculations under paragraph (1)(A) of this subsection if the manufacturer began automobile production or assembly in the United States—

(i) after December 22, 1975, and before May 1, 1980; or

(ii) after April 30, 1980, if the manufacturer has engaged in the production or assembly in the United States for at least one model year ending before January 1, 1986.

(B) The Secretary of Transportation shall grant the exemption unless the Secretary finds that the exemption would result in reduced employment in the United States related to motor vehicle manufacturing during the period of the exemption. An exemption under this paragraph is effective for 5 model years or, if requested by the manufacturer, a longer period provided by the Secretary in the order granting the exemption. The exemption applies to passenger automobiles manufactured by that manufacturer during the period of the exemption.

(C) Before granting an exemption, the Secretary of Transportation shall provide notice of, and reasonable opportunity for, written or oral comment about the petition. The period for comment shall end not later than 60 days after the petition is filed, except that the Secretary may extend the period for not more than another 30 days. The Secretary shall decide whether to grant or deny the exemption, and publish notice of the decision in the Federal Register, not later than 90 days after the petition is filed, except that the Secretary may extend the time for decision to a later date (not later than 150 days after the petition is filed) if the Secretary publishes notice of, and reasons for, the extension in the Federal Register. If the Secretary does not make a decision within the time provided in this subparagraph, the petition is deemed to have been granted. Not later than 30 days after the end of the decision period, the Secretary shall submit a written statement of the reasons for not making a decision to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives.

(7)(A) A person adversely affected by a decision of the Secretary of Transportation granting or denying an exemption may file, not later than 30 days after publication of the notice of the decision, a petition for review in the United States Court of Appeals for the District of Columbia Circuit. That court has exclusive jurisdiction to review the decision and to affirm, remand, or set aside the decision under section 706(2)(A)–(D) of title 5.

(B) A judgment of the court under this subparagraph may be reviewed by the Supreme Court under section 1254 of title 28. Application for review by the Supreme Court must be made not later than 30 days after entry of the court's judgment.

(C) A decision of the Secretary of Transportation on a petition for an exemption under this paragraph may be reviewed administratively or judicially only as provided in this paragraph.

(8) Notwithstanding section 32903 of this title, during a model year when an exemption under this paragraph is effective for a manufacturer—

(A) credit may not be earned under section 32903(a) of this title by the manufacturer; and

(B) credit may not be made available under section 32903(b)(2) of this title for the manufacturer.

(c) TESTING AND CALCULATION PROCEDURES.—The Administrator shall measure fuel economy for each model and calculate average fuel economy for a manufacturer under testing and calculation procedures prescribed by the Administrator. However, except under section 32908 of this title, the Administrator shall use the same procedures for passenger automobiles the Administrator used for model year 1975 (weighted 55 percent urban cycle and 45 percent highway cycle), or procedures that give comparable results. A measurement of fuel economy or a calculation of average fuel economy (except under section 32908) shall be rounded off to the nearest .1 of a mile a gallon. The Administrator shall decide on the quantity of other fuel that is equivalent to one gallon of gasoline. To the extent practicable, fuel economy tests shall be carried out with emissions tests under section 206 of the Clean Air Act (42 U.S.C. 7525).

(d) EFFECTIVE DATE OF PROCEDURE OR AMENDMENT.—The Administrator shall prescribe a procedure under this section, or an amendment (except a technical or clerical amendment) in a procedure, at least 12 months before the beginning of the model year to which the procedure or amendment applies.

(e) REPORTS AND CONSULTATION.—The Administrator shall report measurements and calculations under this section to the Secretary of Transportation and shall consult and coordinate with the Secretary in carrying out this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1062; Pub. L. 103–429, § 6(36), Oct. 31, 1994, 108 Stat. 4380; Pub. L. 104–287, § 5(63), Oct. 11, 1996, 110 Stat. 3395.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32904(a)(1) ..	15:2003(a)(1), (2).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 503(a)(1), (2), (d)–(f); added Dec. 22, 1975, Pub. L. 94–163, § 301, 89 Stat. 906, 907.
32904(a)(2) ..	15:2003(a)(3).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 503(a)(3); added Jan. 7, 1980, Pub. L. 96–185, § 18 (related to § 503(a)(3) of Motor Vehicle Information and Cost Savings Act), 93 Stat. 1336.
32904(b)(1) ..	15:2003(b)(2).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 503(b)(1), (2); added Dec. 22, 1975, Pub. L. 94–163, § 301, 89 Stat. 906; Oct. 10, 1980, Pub. L. 96–425, §§ 4(c)(2), (3), 8(e), 94 Stat. 1824, 1829.
32904(b)(2) ..	15:2003(b)(1).	
32904(b)(3) ..	15:2003(b)(4).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 503(b)(4); added Oct. 10, 1980, Pub. L. 96–425, § 4(b), 94 Stat. 1824.
32904(b)(4)–(6).	15:2003(b)(3).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 503(b)(3); added Oct. 10, 1980, Pub. L. 96–425, § 4(a)(1), 94 Stat. 1822; Nov. 8, 1984, Pub. L. 98–620, § 402(18), 98 Stat. 3358.
32904(c)	15:2003(d)(1) (1st–3d sentences), (2), (e).	
32904(d)	15:2003(d)(3).	
32904(e)	15:2003(d)(1) (last sentence), (f).	

In subsection (a)(1), before clause (A), the words ''of a manufacturer subject to'' are substituted for ''for the purposes of'' for clarity. In clause (B)(ii), the words ''the sum of the fractions obtained by'' are substituted for ''a sum of terms, each term of which is a fraction created by'' to eliminate unnecessary words.

Subsection (a)(2)(A) is substituted for ''as defined in section 2012(b)(2) of this title'' for clarity.

In subsection (a)(2)(B), before clause (i), the words ''the Administrator shall include in the calculation of average fuel economy'' are substituted for ''the average fuel economy will be calculated . . . to include'' for clarity. The text of 15:2003(a)(3)(B) is omitted as executed. The words ''determine and propose'' are substituted for ''propose'' for clarity and consistency with the authority of the Secretary under the source provisions. The words ''based on the following factors'' are substituted for ''Determination of these fuel economy values will take into account the following parameters'' for clarity and to eliminate unnecessary words. The factors in clauses (i)–(iv) are applied to revisions in fuel economy values for clarity and consistency with the authority of the Secretary under the source provisions. In clause (iv), the words ''patterns of use'' are substituted for ''driving patterns'' for clarity.

In subsection (b)(1), before clause (A), the text of 15:2003(b)(2)(A)–(D) is omitted as executed. In clause (A), the words ''is imported . . . more than 30 days after'' are substituted for ''is not imported . . . prior to the expiration of 30 days following'' for clarity and for consistency in the revised chapter. The words ''The EPA Administrator may prescribe rules for purposes of carrying out this subparagraph'' are omitted as surplus because of the authority of the Administrator to prescribe regulations under section 32910(d) of the revised title. The term ''regulations'' is used in section 32910(d) instead of ''rules'' for consistency in the revised title and because the terms are synonymous. In clause (B), the words ''which is imported by a manufacturer in model year 1978 or any subsequent year, as the case may be, and'' are omitted as surplus.

In subsection (b)(2)(A), before clause (i), the words ''Except as provided in paragraphs (4) and (5) of this subsection'' are added for clarity. The words ''the Administrator shall make separate calculations'' are substituted for ''In calculating average fuel economy . . . the EPA Administrator shall separate the total number of passenger automobiles manufactured by a manufacturer into the following two categories'' and ''The EPA Administrator shall calculate the average fuel economy of each such separate category'' to eliminate unnecessary words. In clauses (i) and (ii), the reference in the parenthetical to paragraph (3) is substituted for the reference in the source to paragraph (3), which apparently should have been a reference to paragraph (4). The text of 15:2003(b)(1)(A) (words in parentheses) and (B) (words in parentheses) is omitted as executed.

Subsection (b)(2)(B) is substituted for 15:2003(b)(1) (words after last comma) because of the restatement.

In subsection (b)(3)(A), before clause (i), the word ''deadlines'' is substituted for ''dates'' for clarity. The text of 15:2003(b)(4)(C) is omitted as executed.

In subsection (b)(4)(A), before clause (i), the words ''A manufacturer may file with the Secretary of Transportation a petition for an exemption from the requirement of separate calculations under paragraph (2)(A) of this subsection'' are substituted for ''petition . . . for an exemption from the provisions of paragraph (1) filed by a manufacturer, the Secretary'' for clarity.

In subsection (b)(5)(B), the words ''judgment of the court under this subparagraph may be reviewed'' are substituted for ''judgment of the court affirming, remanding, or setting aside, in whole or in part, any such decision shall be final, subject to review'' to eliminate unnecessary words.

In subsection (b)(5)(C), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The words ''a petition for'' are added for consistency.

In subsection (c), the words ''of a model type'' and ''of a manufacturer'' are omitted as surplus. The words ''by rule'' are omitted as surplus because of the authority of the Administrator to prescribe regulations under section 32910(d) of the revised title. The term ''regulations'' is used in section 32910(d) instead of ''rules'' for consistency in the revised title and because the terms are synonymous. The words ''However . . . the Administrator shall use the same procedures for passenger automobiles the Administrator used'' are substituted for ''Procedures so established with respect to passenger automobiles . . . shall be the procedures utilized by the EPA Administrator'' for clarity. The words ''(in accordance with rules of the EPA Administrator)'' are omitted as surplus. The words ''fuel economy tests shall be carried out with'' are substituted for ''Procedures under this subsection . . . shall require that fuel economy tests be conducted in conjunction with'' to eliminate unnecessary words.

In subsection (d), the words ''The Administrator shall prescribe a procedure under this section, or an amendment . . . at least'' are substituted for ''Testing and calculation procedures applicable to a model year and any amendment to such procedures . . . shall be promulgated not less than'' to eliminate unnecessary words.

In subsection (e), the words ''his duties under'' are omitted as surplus.

PUB. L. 103–429, §6(36)(A)

This makes conforming amendments necessary because of the restatement of 15:2003(b)(2)(G) as 49:32904(b)(3) by section 6(36)(B) of the bill.

PUB. L. 103–429, §6(36)(B)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32904(b)	15:2003(b)(2)(E), (G).	Oct. 20, 1972, Public Law 92–513, §503(b)(2)(E), (G), as amended Dec. 8, 1993, Pub. L. 103–182, §371, 107 Stat. 2127.

The text of 49:32904(b)(1) is the text of 49:32904(b)(2), as enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1063), with conforming changes made in the cited cross-references.

The text of subsection (b)(2) is the text of 49:32904(b)(1)(A), as enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1063), with the amendments of the underlying source provisions of 49:32904(b)(1)(A) made by section 371(b)(1) of the North American Free Trade Implementation Act (Public Law 103–182, 107 Stat. 2128). The words ''(except as provided in paragraph (3))'' are substituted for ''Except as provided in subparagraph (G)'' because of the restatement of 15:2003(b)(2)(G) as 49:32904(b)(3).

In subsection (b)(3)(A), the words ''is imported . . . more than 30 days after'' are substituted for ''is not imported . . . prior to the expiration of 30 days following'' for clarity and consistency with title 49, United States Code.

In subsection (b)(3)(C), the words ''and the EPA Administrator may prescribe rules for purposes of carrying out this subparagraph'' are omitted as surplus because of the authority of the Administrator to prescribe regulations under 49:32910(d). The amendment made by section 371(b)(2) of the North American Free Trade Implementation Act (Public Law 103–182, 107 Stat. 2128) is not given effect because the last sentence of section 503(b)(2)(E) of the Motor Vehicle and Cost Savings Act (Public Law 92–513, 86 Stat. 947) was omitted in the restatement of title 49 because of the authority of the Administrator to prescribe regulations under 49:32910(d).

The text of subsection (b)(4) is the text of 49:32904(b)(1)(B), as enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1063).

PUB. L. 103–429, §6(36)(C), (D)

This makes conforming amendments necessary because of the restatement of 15:2003(b)(2)(G) as 49:32904(b)(3) by section 6(36)(B) of the bill.

AMENDMENTS

1996—Subsec. (b)(6)(C). Pub. L. 104–287 substituted ''Committee on Commerce'' for ''Committee on Energy and Commerce''.

1994—Subsec. (b)(1). Pub. L. 103–429, §6(36)(B), added par. (1) and struck out former par. (1) which read as follows: ''In this subsection—

''(A) a passenger automobile is deemed to be manufactured domestically in a model year if at least 75 percent of the cost to the manufacturer is attributable to value added in the United States or Canada, unless the assembly of the automobile is completed in Canada and the automobile is imported into the United States more than 30 days after the end of the model year; and

''(B) the fuel economy of a passenger automobile that is not manufactured domestically is deemed to be equal to the average fuel economy of all passenger automobiles manufactured by the same manufacturer that are not manufactured domestically.''

Subsec. (b)(2). Pub. L. 103–429, §6(36)(B), added par. (2) and struck out former par. (2) which read as follows:

''(2)(A) Except as provided in paragraphs (4) and (5) of this subsection, the Administrator shall make separate calculations under subsection (a)(1)(B) of this section for—

''(i) passenger automobiles manufactured domestically by a manufacturer (or included in this category under paragraph (3) of this subsection); and

''(ii) passenger automobiles not manufactured domestically by that manufacturer (or excluded from this category under paragraph (3) of this subsection).

''(B) Passenger automobiles described in subparagraph (A)(i) and (ii) of this paragraph are deemed to be manufactured by separate manufacturers under this chapter.''

Subsec. (b)(3), (4). Pub. L. 103–429, §6(36)(B), added pars. (3) and (4). Former pars. (3) and (4) redesignated (5) and (6), respectively.

Subsec. (b)(5). Pub. L. 103–429, §6(36)(A), redesignated par. (3) as (5). Former par. (5) redesignated (7).

Subsec. (b)(5)(B). Pub. L. 103–429, §6(36)(C), substituted ''paragraph (1)(A)(i) and exclude under paragraph (1)(A)(ii)'' for ''paragraph (2)(A)(i) and exclude under paragraph (2)(A)(ii)'' in introductory provisions.

Subsec. (b)(6). Pub. L. 103–429, §6(36)(A), redesignated par. (4) as (6). Former par. (6) redesignated (8).

Subsec. (b)(6)(A). Pub. L. 103–429, §6(36)(D), substituted ''paragraph (1)(A)'' for ''paragraph (2)(A)'' in introductory provisions.

Subsec. (b)(7), (8). Pub. L. 103–429, §6(36)(A), redesignated pars. (5) and (6) as (7) and (8), respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 32901, 32905, 32906, 32909, 32910, 32911, 32912, 32916 of this title; title 15 section 2512.

§ 32905. Manufacturing incentives for alternative fuel automobiles

(a) DEDICATED AUTOMOBILES.—Except as provided in subsection (c) of this section or section 32904(a)(2) of this title, for any model of dedicated automobile manufactured by a manufacturer after model year 1992, the fuel economy measured for that model shall be based on the fuel content of the alternative fuel used to operate the automobile. A gallon of a liquid alternative fuel used to operate a dedicated automobile is deemed to contain .15 gallon of fuel.

(b) DUAL FUELED AUTOMOBILES.—Except as provided in subsection (d) of this section or section 32904(a)(2) of this title, for any model of dual fueled automobile manufactured by a manufacturer in model years 1993–2004, the Administrator of the Environmental Protection Agency shall measure the fuel economy for that model by dividing 1.0 by the sum of—

(1) .5 divided by the fuel economy measured under section 32904(c) of this title when operating the model on gasoline or diesel fuel; and

(2) .5 divided by the fuel economy measured under subsection (a) of this section when operating the model on alternative fuel.

(c) GASEOUS FUEL DEDICATED AUTOMOBILES.—For any model of gaseous fuel dedicated automobile manufactured by a manufacturer after model year 1992, the Administrator shall measure the fuel economy for that model based on the fuel content of the gaseous fuel used to operate the automobile. One hundred cubic feet of natural gas is deemed to contain .823 gallon equivalent of natural gas. The Secretary of Transportation shall determine the appropriate gallon equivalent of other gaseous fuels. A gallon equivalent of gaseous fuel is deemed to have a fuel content of .15 gallon of fuel.

(d) GASEOUS FUEL DUAL FUELED AUTOMOBILES.—For any model of gaseous fuel dual fueled automobile manufactured by a manufacturer in model years 1993–2004, the Administrator shall measure the fuel economy for that model by dividing 1.0 by the sum of—

(1) .5 divided by the fuel economy measured under section 32904(c) of this title when operating the model on gasoline or diesel fuel; and

(2) .5 divided by the fuel economy measured under subsection (c) of this section when operating the model on gaseous fuel.

(e) FUEL ECONOMY CALCULATIONS.—The Administrator shall calculate the manufacturer's average fuel economy under section 32904(a)(1) of this title for each model described under subsections (a)–(d) of this section by using as the denominator the fuel economy measured for each model under subsections (a)–(d).

(f) EXTENDING APPLICATION OF SUBSECTIONS (b) AND (d).—Not later than December 31, 2001, the Secretary of Transportation shall—

(1) extend by regulation the application of subsections (b) and (d) of this section for not more than 4 consecutive model years immediately after model year 2004 and explain the basis on which the extension is granted; or

(2) publish a notice explaining the reasons for not extending the application of subsections (b) and (d) of this section.

(g) STUDY AND REPORT.—Not later than September 30, 2000, the Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator, shall complete a study of the success of the policy of subsections (b) and (d) of this title, and submit to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate and the Committee on Commerce of the House of Representatives a report on the results of the study, including preliminary conclusions on whether the application of subsections (b) and (d) should be extended for up to 4 more model years. The study and conclusions shall consider—

(1) the availability to the public of alternative fueled automobiles and alternative fuel;

(2) energy conservation and security;

(3) environmental considerations; and

(4) other relevant factors.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1065; Pub. L. 104–287, §5(63), Oct. 11, 1996, 110 Stat. 3395.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32905(a)	15:2013(a), (f)(1).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §513(a)–(f); added Oct. 14, 1988, Pub. L. 100–494, §6(a), 102 Stat. 2448; Oct. 24, 1992, Pub. L. 102–486, §403(5)(A)–(F), 106 Stat. 2876.
32905(b)	15:2013(b), (f)(1).	
32905(c)	15:2013(c), (f)(1).	
32905(d)	15:2013(d), (f)(1).	
32905(e)	15:2013(e).	
32905(f)	15:2013(f)(2)(B).	
32905(g)	15:2013(f)(2)(A).	

In subsections (a) and (c), the words ''after model year 1992'' are substituted for ''Subsections (a) and (c) shall apply only to automobiles manufactured after model year 1992'' because of the restatement.

In subsections (b) and (d), before each clause (1), the words ''in model years 1993–2004'' are substituted for ''Except as otherwise provided in this subsection, subsections (b) and (d) shall apply only to automobiles manufactured in model year 1993 through model year 2004'' to eliminate unnecessary words and because of the restatement.

In subsection (c), the words ''For purposes of this section'' and ''than natural gas'' are omitted as unnecessary because of the restatement. The words ''a gallon equivalent of natural gas'' are omitted as being included in ''A gallon equivalent of any gaseous fuel''.

In subsection (e), the words ''subject to the provisions of this section'' are omitted as unnecessary because of the restatement. The words ''for each model described under subsections (a)–(d) of this section'' are substituted for ''for each model type of dedicated automobile or dual fueled automobile'' to eliminate unnecessary words. The words ''by using as the denominator'' are substituted for ''by including as the denominator of the term'' for clarity.

AMENDMENTS

1996—Subsec. (g). Pub. L. 104–287 substituted ''Committee on Commerce'' for ''Committee on Energy and Commerce''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 32901, 32906, 32908 of this title.

§ 32906. Maximum fuel economy increase for alternative fuel automobiles

(a) MAXIMUM INCREASES.—(1)(A) For each of the model years 1993–2004 for each category of automobile (except an electric automobile), the maximum increase in average fuel economy for a manufacturer attributable to dual fueled automobiles is 1.2 miles a gallon.

(B) If the application of section 32905(b) and (d) of this title is extended under section 32905(f) of this title, for each category of automobile (except an electric automobile) the maximum increase in average fuel economy for a manufacturer for each of the model years 2005–2008 attributable to dual fueled automobiles is .9 mile a gallon.

(2) In applying paragraph (1) of this subsection, the Administrator of the Environmental Protection Agency shall determine the increase in a manufacturer's average fuel economy attributable to dual fueled automobiles by subtracting from the manufacturer's average fuel economy calculated under section 32905(e) of this title the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 32904(a)(1) of this title by including as the denominator for each model of dual fueled automobile the fuel economy when the automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual fueled automobiles for any model year described—

(A) in paragraph (1)(A) of this subsection is more than 1.2 miles a gallon, the limitation in paragraph (1)(A) applies; and

(B) in paragraph (1)(B) of this subsection is more than .9 mile a gallon, the limitation in paragraph (1)(B) applies.

(b) OFFSETS.—Notwithstanding this section and sections 32901(c) and 32905 of this title, if the Secretary of Transportation reduces the average fuel economy standard for passenger automobiles for any model year below 27.5 miles a gallon, an increase in average fuel economy for passenger automobiles of more than .7 mile a gallon to which a manufacturer of dual fueled automobiles would otherwise be entitled is reduced by an amount equal to the amount of the reduction in the standard. However, the increase may not be reduced to less than .7 mile a gallon.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1067.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32906(a)	15:2013(g)(1).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §513(g)(1), (2)(A); added Oct. 14, 1988, Pub. L. 100–494, §6(a), 102 Stat. 2449; Oct. 24, 1992, Pub. L. 102–486, §403(5)(G)(i), (ii)(I), 106 Stat. 2877.
32906(b)	15:2013(g)(2)(A).	

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32901 of this title.

§ 32907. Reports and tests of manufacturers

(a) MANUFACTURER REPORTS.—(1) A manufacturer shall report to the Secretary of Transportation on—

(A) whether the manufacturer will comply with an applicable average fuel economy standard under section 32902 of this title for the model year for which the report is made;

(B) the actions the manufacturer has taken or intends to take to comply with the standard; and

(C) other information the Secretary requires by regulation.

(2) A manufacturer shall submit a report under paragraph (1) of this subsection during the 30 days—

(A) before the beginning of each model year; and

(B) beginning on the 180th day of the model year.

(3) When a manufacturer decides that actions reported under paragraph (1)(B) of this subsection are not sufficient to ensure compliance with that standard, the manufacturer shall report to the Secretary additional actions the manufacturer intends to take to comply with the standard and include a statement about

whether those actions are sufficient to ensure compliance.

(4) This subsection does not apply to a manufacturer for a model year for which the manufacturer is subject to an alternative average fuel economy standard under section 32902(d) of this title.

(b) RECORDS, REPORTS, TESTS, INFORMATION, AND INSPECTION.—(1) Under regulations prescribed by the Secretary or the Administrator of the Environmental Protection Agency to carry out this chapter, a manufacturer shall keep records, make reports, conduct tests, and provide items and information. On request and display of proper credentials, an officer or employee designated by the Secretary or Administrator may inspect automobiles and records of the manufacturer. An inspection shall be made at a reasonable time and in a reasonable way.

(2) The district courts of the United States may—

(A) issue an order enforcing a requirement or request under paragraph (1) of this subsection; and

(B) punish a failure to obey the order as a contempt of court.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1067.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32907(a)	15:2005(a)(1)–(3).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §505(a)(1)–(3), (c); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 908, 909.
	15:2005(a)(4).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §505(a)(4); added Oct. 10, 1980, Pub. L. 96–425, §3(b), 94 Stat. 1822.
32907(b)	15:2005(c).	

In subsection (a)(1), before clause (A), the words ''shall report to the Secretary of Transportation on'' are substituted for ''shall submit a report to the Secretary . . . Each such report shall contain (A) a statement as to'' to eliminate unnecessary words. In clause (B), the words ''the actions'' are substituted for ''a plan which describes the steps'' to eliminate unnecessary words.

In subsection (a)(2)(A), the words ''after model year 1977'' are omitted as obsolete.

In subsection (a)(3), the words ''actions reported . . . are not sufficient to ensure compliance with that standard'' are substituted for ''a plan submitted . . . which he stated was sufficient to insure compliance with applicable average fuel economy standards is not sufficient to insure such compliance'' to eliminate unnecessary words and for consistency in the section. The words ''additional actions'' are substituted for ''a revised plan which specifies any additional measures'' for consistency in the section. The text of 15:2005(a)(3) is omitted as surplus because of 49:322(a).

In subsection (b)(1), the words ''Under regulations prescribed by the Secretary or the Administrator of the Environmental Protection Agency to carry out this chapter'' are substituted for ''as the Secretary or the EPA Administrator may, by rule, reasonably require to enable the Secretary or the EPA Administrator to carry out their duties under this subchapter and under any rules prescribed pursuant to this subchapter'' to eliminate unnecessary words, for consistency in the revised title, and because ''rules'' and ''regulations'' are synonymous. The words ''establish and'' are omitted as surplus. The 2d sentence is substituted for 15:2005(c) (2d sentence) to eliminate unnecessary words and for consistency. The text of 15:2005(c)(1) (last sentence) is omitted as surplus because of section 32910(d) of the revised title and 49:322(a).

Subsection (b)(2)(A) is substituted for ''if a manufacturer refuses to accede to any rule or reasonable request made under paragraph (1), issue an order requiring compliance with such requirement or request'' to eliminate unnecessary words.

Subsection (b)(2)(B) is substituted for 15:2005(c) (last sentence) to eliminate unnecessary words.

§ 32908. Fuel economy information

(a) DEFINITIONS.—In this section—

(1) ''automobile'' includes an automobile rated at not more than 8,500 pounds gross vehicle weight regardless of whether the Secretary of Transportation has applied this chapter to the automobile under section 32901(a)(3)(B) of this title.

(2) ''dealer'' means a person residing or located in a State, the District of Columbia, or a territory or possession of the United States, and engaged in the sale or distribution of new automobiles to the first person (except a dealer buying as a dealer) that buys the automobile in good faith other than for resale.

(b) LABELING REQUIREMENTS AND CONTENTS.—(1) Under regulations of the Administrator of the Environmental Protection Agency, a manufacturer of automobiles shall attach a label to a prominent place on each automobile manufactured in a model year. The dealer shall maintain the label on the automobile. The label shall contain the following information:

(A) the fuel economy of the automobile.

(B) the estimated annual fuel cost of operating the automobile.

(C) the range of fuel economy of comparable automobiles of all manufacturers.

(D) a statement that a booklet is available from the dealer to assist in making a comparison of fuel economy of other automobiles manufactured by all manufacturers in that model year.

(E) the amount of the automobile fuel efficiency tax imposed on the sale of the automobile under section 4064 of the Internal Revenue Code of 1986 (26 U.S.C. 4064).

(F) other information required or authorized by the Administrator that is related to the information required by clauses (A)–(D) of this paragraph.

(2) The Administrator may allow a manufacturer to comply with this subsection by—

(A) disclosing the information on the label required under section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232); and

(B) including the statement required by paragraph (1)(E) of this subsection at a time and in a way that takes into account special circumstances or characteristics.

(3) For dedicated automobiles manufactured after model year 1992, the fuel economy of those automobiles under paragraph (1)(A) of this subsection is the fuel economy for those automobiles when operated on alternative fuel, measured under section 32905(a) or (c) of this title, multiplied by .15. Each label required under paragraph (1) of this subsection for dual fueled automobiles shall—

(A) indicate the fuel economy of the automobile when operated on gasoline or diesel fuel;

(B) clearly identify the automobile as a dual fueled automobile;

(C) clearly identify the fuels on which the automobile may be operated; and

(D) contain a statement informing the consumer that the additional information required by subsection (c)(2) of this section is published and distributed by the Secretary of Energy.

(c) FUEL ECONOMY INFORMATION BOOKLET.—(1) The Administrator shall prepare the booklet referred to in subsection (b)(1)(D) of this section. The booklet—

(A) shall be simple and readily understandable;

(B) shall contain information on fuel economy and estimated annual fuel costs of operating automobiles manufactured in each model year; and

(C) may contain information on geographical or other differences in estimated annual fuel costs.

(2)(A) For dual fueled automobiles manufactured after model year 1992, the booklet published under paragraph (1) shall contain additional information on—

(i) the energy efficiency and cost of operation of those automobiles when operated on gasoline or diesel fuel as compared to those automobiles when operated on alternative fuel; and

(ii) the driving range of those automobiles when operated on gasoline or diesel fuel as compared to those automobiles when operated on alternative fuel.

(B) For dual fueled automobiles, the booklet published under paragraph (1) also shall contain—

(i) information on the miles a gallon achieved by the automobiles when operated on alternative fuel; and

(ii) a statement explaining how the information made available under this paragraph can be expected to change when the automobile is operated on mixtures of alternative fuel and gasoline or diesel fuel.

(3) The Secretary of Energy shall publish and distribute the booklet. The Administrator shall prescribe regulations requiring dealers to make the booklet available to prospective buyers.

(d) DISCLOSURE.—A disclosure about fuel economy or estimated annual fuel costs under this section does not establish a warranty under a law of the United States or a State.

(e) VIOLATIONS.—A violation of subsection (b) of this section is—

(1) a violation of section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232); and

(2) an unfair or deceptive act or practice in or affecting commerce under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), except sections 5(m) and 18 (15 U.S.C. 45(m), 57a).

(f) CONSULTATION.—The Administrator shall consult with the Federal Trade Commission and the Secretaries of Transportation and Energy in carrying out this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1068; Pub. L. 103–429, §6(37), Oct. 31, 1994, 108 Stat. 4382.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32908(a)	15:2006(c)(2).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §506(a)(1)–(3), (b)(1), (2), (c)(1), (2), (d), (e); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 910; Nov. 9, 1978, Pub. L. 95–619, §§401(a)(2), 403(a), (b), 92 Stat. 3254, 3256.
	15:2006(c)(3).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §506(c)(3); added Nov. 9, 1978, Pub. L. 95–619, §401(a)(1), 92 Stat. 3254.
32908(b)(1), (2).	15:2006(a)(1)–(3).	
32908(b)(3) ..	15:2006(a)(4).	Oct. 20, 1972, Pub. L. 92–516, 86 Stat. 947, §506(a)(4), (b)(3); added Oct. 14, 1988, Pub. L. 100–494, §8(a), 102 Stat. 2452; Oct. 24, 1992, Pub. L. 102–486, §403(3), (4), 106 Stat. 2876.
	15:2006 (note).	Oct. 14, 1988, Pub. L. 100–494, §8(b), 102 Stat. 2453.
32908(c)(1) ..	15:2006(b)(1) (1st sentence).	
32908(c)(2) ..	15:2006(b)(3). 15:2006 (note).	
32908(c)(3) ..	15:2006(b)(1) (last sentence), (2).	
32908(d)	15:2006(d).	
32908(e)	15:2006(c)(1).	
32908(f)	15:2006(e).	

In this section, references to the Secretary of Energy are substituted for references to the Administrator of the Federal Energy Administration because of 42:7151.

In subsection (a)(1), the words ''regardless of whether the Secretary of Transportation has applied this chapter to the automobile'' are substituted for ''notwithstanding any lack of determination required of the Secretary'' for consistency with section 32901(b) of the revised title.

In subsection (a)(2), the words ''means a person residing or located in a State, the District of Columbia, or a territory or possession of the United States, and engaged in the sale or distribution of new automobiles to the first person (except a dealer buying as a dealer) that buys the automobile in good faith other than for resale'' are substituted for ''has the same meaning as such term has in section 2(e) of the Automobile Information Disclosure Act (15 U.S.C. 1231(e))'' to include the words of 15:1231(e) and (g) in the subsection for clarity. The words ''territory or possession'' are substituted for ''Territory'' for consistency in the revised title and with other titles of the United States Code. The words ''except that in applying such term to this section, the term 'automobile' has the same meaning as such term has in section 2001(1) of this title (taking into account paragraph (3) of this subsection)'' are omitted as surplus.

In subsection (b)(1), before clause (A), the text of 15:2006(a)(2) is omitted as executed. The words ''Except as otherwise provided in paragraph (2)'' are omitted as surplus because 15:2006(a)(2) is executed and is not part of the revised title. The words ''Under regulations of the Administrator of the Environmental Protection Agency'' are substituted for ''as determined in accordance with rules of the EPA Administrator'' and the text of 15:2006(a)(3) (1st, 2d sentences) to eliminate unnecessary words, for consistency in the revised title, and because ''rules'' is synonymous with ''regulations''. The word ''attach'' is substituted for ''cause to be affixed'', to eliminate unnecessary words. The words ''after model year 1976'' are omitted as executed. The

words ''The label shall contain the following information'' are substituted for ''indicating'' and ''containing'' for clarity. In clause (C), the words ''of all manufacturers'' are substituted for ''(whether or not manufactured by such manufacturer)'' to eliminate unnecessary words. In clause (D), the words ''a booklet is available from the dealer to assist in making a comparison of fuel economy of other automobiles manufactured by all manufacturers in that model year'' are substituted for ''written information (as described in subsection (b)(1) of this section) with respect to the fuel economy of other automobiles manufactured in such model year (whether or not manufactured by such manufacturer) is available from the dealer in order to facilitate comparison among the various model types'' to eliminate unnecessary words. In clause (E), the words ''automobile fuel efficiency tax imposed on the sale of the automobile under section 4064 of the Internal Revenue Code of 1986 (26 U.S.C. 4064)'' are substituted for ''in the case of any automobile, the sale of which is subject to any Federal tax imposed with respect to automobile fuel efficiency, a statement indicating the amount of such tax'' for clarity.

In subsection (b)(3)(D), the words ''Secretary of Energy'' are substituted for ''Department of Energy'' because of 42:7131.

In subsection (c)(1), before clause (A), the words ''compile and'' are omitted as surplus.

In subsection (c)(3), the words ''not later than July 31, 1976'' are omitted as executed. The words ''make the booklet available to prospective buyers'' are substituted for ''make available to prospective purchasers information compiled by the EPA Administrator under paragraph (1)'' to eliminate unnecessary words.

In subsection (d), the words ''which is required to be made'', ''an express or implied'', and ''that such fuel economy will be achieved, or that such cost will not be exceeded, under conditions of actual use'' are omitted as surplus.

In subsection (f), the words ''his duties under'' are omitted as surplus.

PUB. L. 103–429

This amends 49:32908(b)(1) to clarify the restatement of 15:2006(a)(1) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1068).

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (e)(2), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103–429 inserted ''on the automobile'' after ''maintain the label'' in introductory provisions.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 32304, 32901, 32904, 32909, 32911, 32918 of this title.

§ 32909. Judicial review of regulations

(a) FILING AND VENUE.—(1) A person that may be adversely affected by a regulation prescribed in carrying out any of sections 32901–32904 or 32908 of this title may apply for review of the regulation by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

(2) A person adversely affected by a regulation prescribed under section 32912(c)(1) of this title may apply for review of the regulation by filing a petition for review in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

(b) TIME FOR FILING AND JUDICIAL PROCEDURES.—The petition must be filed not later than 59 days after the regulation is prescribed, except that a petition for review of a regulation prescribing an amendment of a standard submitted to Congress under section 32902(c)(2) of this title must be filed not later than 59 days after the end of the 60-day period referred to in section 32902(c)(2). The clerk of the court shall send immediately a copy of the petition to the Secretary of Transportation or the Administrator of the Environmental Protection Agency, whoever prescribed the regulation. The Secretary or the Administrator shall file with the court a record of the proceeding in which the regulation was prescribed.

(c) ADDITIONAL PROCEEDINGS.—(1) When reviewing a regulation under subsection (a)(1) of this section, the court, on request of the petitioner, may order the Secretary or the Administrator to receive additional submissions if the court is satisfied the additional submissions are material and there were reasonable grounds for not presenting the submissions in the proceeding before the Secretary or Administrator.

(2) The Secretary or the Administrator may amend or set aside the regulation, or prescribe a new regulation because of the additional submissions presented. The Secretary or Administrator shall file an amended or new regulation and the additional submissions with the court. The court shall review a changed or new regulation.

(d) SUPREME COURT REVIEW AND ADDITIONAL REMEDIES.—A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28. A remedy under subsections (a)(1) and (c) of this section is in addition to any other remedies provided by law.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1070; Pub. L. 103–429, § 6(38), Oct. 31, 1994, 108 Stat. 4382.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32909(a)(1) ..	15:2004(a) (1st sentence words before 4th and after 6th commas, last sentence).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 504; added Dec. 22, 1975, Pub. L. 94–163, § 301, 89 Stat. 908.
32909(a)(2) ..	15:2004(a) (4th sentence).	
	15:2008(e)(3)(A) (1st sentence less 15th–31st words), (B).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 508(e)(3); added Nov. 9, 1978, Pub. L. 95–619, § 402, 92 Stat. 3256.
32909(b)	15:2004(a) (1st sentence words between 4th and 6th commas, 2d, 3d sentences).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	15:2008(e)(3)(A) (1st sentence 15th–31st words, 2d, last sentences).	
32909(c)	15:2004(b).	
32909(d)	15:2004(c), (d). 15:2008(e)(3)(C).	

In this section, the word ''regulation'' is substituted for ''rule'' for consistency in the revised title and because the terms are synonymous.

In subsection (a)(1) and (2), the words ''apply for review'' are added for clarity.

In subsection (a)(1), the text of 15:2004(a) (last sentence) is omitted because 15:2002(d) is executed and is not a part of the revised title.

In subsection (a)(2), the words ''adversely affected'' are substituted for ''aggrieved'', and the words ''regulation prescribed'' are substituted for ''final rule'', for consistency in the revised title and with other titles of the United States Code. The text of 15:2004(a) (4th sentence) and 2008(e)(3)(B) is omitted because 5:ch. 7 applies unless otherwise stated.

In subsection (b), the words ''a regulation prescribing an amendment of a standard submitted to Congress'' are substituted for ''or in the case of an amendment submitted to each House of Congress'' in 15:2004(a), and the words ''the Secretary of Transportation or the Administrator of the Environmental Protection Agency, whoever prescribed the regulation'' are substituted for ''the officer who prescribed the rule'', for clarity. The words ''a record of the proceeding in which the regulation was prescribed'' are substituted for ''the written submissions and other materials in the proceeding upon which such rule was based'' in 15:2004(a) and ''the written submissions to, and transcript of, the written and oral proceedings on which the rule was based, as provided in section 2112 of title 28, United States Code'' in 15:2008(e)(3) for consistency and to eliminate unnecessary words.

In subsection (c)(1), the words ''on request of the petitioner'' are substituted for ''If the petitioner applies to the court in a proceeding under subsection (a) of this section for leave to make additional submissions'', and the words ''to receive additional submissions'' are substituted for ''to provide additional opportunity to make such submissions'', for clarity.

In subsection (c)(2), the words ''amend . . . the regulation'' and ''amended . . . regulation'' are substituted for ''modify . . . the rule'' and ''modified . . . rule'', respectively, for consistency in the chapter and because ''regulation'' is synonymous with ''rule''.

In subsection (d), the words ''affirming or setting aside, in whole or in part'' are omitted as surplus. The words ''and not in lieu of'' in 15:2004(d) are omitted as surplus.

PUB. L. 103–429

This amends 49:32909(a)(1) to correct an erroneous cross-reference.

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–429 substituted ''any of sections 32901–32904'' for ''section 32901–32904''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33117 of this title.

§ 32910. Administrative

(a) GENERAL POWERS.—(1) In carrying out this chapter, the Secretary of Transportation or the Administrator of the Environmental Protection Agency may—

(A) inspect and copy records of any person at reasonable times;

(B) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(C) conduct hearings, administer oaths, take testimony, and subpena witnesses and records the Secretary or Administrator considers advisable.

(2) A witness summoned under paragraph (1)(C) of this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(b) CIVIL ACTIONS TO ENFORCE.—A civil action to enforce a subpena or order of the Secretary or Administrator under subsection (a) of this section may be brought in the district court of the United States for any judicial district in which the proceeding by the Secretary or Administrator is conducted. The court may punish a failure to obey an order of the court to comply with the subpena or order of the Secretary or Administrator as a contempt of court.

(c) DISCLOSURE OF INFORMATION.—The Secretary and the Administrator each shall disclose information obtained under this chapter (except information obtained under section 32904(c) of this title) under section 552 of title 5. However, the Secretary or Administrator may withhold information under section 552(b)(4) of title 5 only if the Secretary or Administrator decides that disclosure of the information would cause significant competitive damage. A matter referred to in section 552(b)(4) and relevant to an administrative or judicial proceeding under this chapter may be disclosed in that proceeding. A measurement or calculation under section 32904(c) of this title shall be disclosed under section 552 of title 5 without regard to section 552(b).

(d) REGULATIONS.—The Administrator may prescribe regulations to carry out duties of the Administrator under this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1070; Pub. L. 103–429, § 6(39), Oct. 31, 1994, 108 Stat. 4382.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32910(a)	15:2005(b)(1), (3).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 505(b), (d); added Dec. 22, 1975, Pub. L. 94–163, § 301, 89 Stat. 909.
32910(b)	15:2005(b)(2).	
32910(c)	15:2005(d).	
32910(d)	(no source).	

In subsection (a)(1), before clause (A), the words ''or their duly designated agents'' are omitted as surplus because of 49:322(b) and section 3 of Reorganization Plan No. 3 of 1970 (eff. Dec. 2, 1970, 84 Stat. 2089). In clause (A), the words ''inspect and copy records of any person'' are substituted for ''require, by general or special orders, that any person . . . (B) provide . . . access to (and for the purpose of examination, the right to copy) any documentary evidence of such person'' to eliminate unnecessary words. The words ''which is relevant to any functions of the Secretary or the EPA Administrator under this subchapter'' are omitted as cov-

ered by ''In carrying out this chapter''. In clause (B), the word ''order'' is substituted for ''require, by general or special orders'', and the words ''including reports or answers under oath'' are substituted for ''Such reports and answers shall be made under oath or otherwise'', to eliminate unnecessary words. The words ''in such form as the Secretary or EPA Administrator may prescribe'' and ''shall be filed with the Secretary or the EPA Administrator within such reasonable period as either may prescribe'' are omitted as surplus because of subsection (d) of this section and 49:322(a). The words ''relating to any function of the Secretary or the EPA Administrator under this subchapter'' are omitted as surplus. In clause (C), the words ''sit and act at such times and places'' are omitted as being included in ''conduct hearings''. The words ''subpena witnesses'' are substituted for ''require, by subpena, the attendance and testimony of such witnesses'' to eliminate unnecessary words.

In subsection (b), the words ''A civil action to enforce a subpena or order of the Secretary or Administrator under subsection (a) of this section may be brought in the district court of the United States for the judicial district in which the proceeding by the Secretary or Administrator was conducted'' are substituted for 15:2005(b)(2) (1st sentence) for consistency and to eliminate unnecessary words.

In subsection (c), the words ''to the public'' are omitted as surplus. The words ''However, the Secretary or the Administrator may withhold information'' are substituted for ''except that information may be withheld from disclosure'' for clarity.

Subsection (d) is added for convenience because throughout the chapter the Administrator is given authority to prescribe regulations to carry out duties of the Administrator.

PUB. L. 103–429

This amends 49:32910(b) to clarify the restatement of 15:2005(b)(2) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1071).

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–429 substituted ''any judicial district in which the proceeding by the Secretary or Administrator is conducted'' for ''the judicial district in which the proceeding by the Secretary or Administrator was conducted''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 13263.

§ 32911. Compliance

(a) GENERAL.—A person commits a violation if the person fails to comply with this chapter and regulations and standards prescribed and orders issued under this chapter (except sections 32902, 32903, 32908(b), 32917(b), and 32918 and regulations and standards prescribed and orders issued under those sections). The Secretary of Transportation shall conduct a proceeding, with an opportunity for a hearing on the record, to decide whether a person has committed a violation. Any interested person may participate in a proceeding under this subsection.

(b) AUTOMOBILE MANUFACTURERS.—A manufacturer of automobiles commits a violation if the manufacturer fails to comply with an applicable average fuel economy standard under section 32902 of this title. Compliance is determined after considering credits available to the manufacturer under section 32903 of this title. If average fuel economy calculations under section 32904(c) of this title indicate that a manufacturer has violated this subsection, the Secretary shall conduct a proceeding, with an opportunity for a hearing on the record, to decide whether a violation has been committed. The Secretary may not conduct the proceeding if further measurements of fuel economy, further calculations of average fuel economy, or other information indicates a violation has not been committed. The results of the measurements and calculations and the information shall be published in the Federal Register. Any interested person may participate in a proceeding under this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1071; Pub. L. 103–429, § 6(40), Oct. 31, 1994, 108 Stat. 4382.)

Historical and Revision Notes
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32911(a)	15:2007(a)(3).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §§ 507(a), 508(a); added Dec. 22, 1975, Pub. L. 94–163, § 301, 89 Stat. 911; Oct. 10, 1980, Pub. L. 96–425, § 6(a)(1), (c)(1), (2), 94 Stat. 1826, 1827.
	15:2008(a)(2).	
32911(b)	15:2007(a)(1), (2).	
	15:2007(b).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 507(b); added Oct. 10, 1980, Pub. L. 96–425, § 6(a)(2), 94 Stat. 1826.
	15:2008(a).	

In this section, the words ''commits a violation if the . . . fails'' are substituted for ''the following conduct is unlawful . . . the failure of any person'' for clarity and consistency in the revised title.

In subsection (a), the reference to 15:2011 is omitted because that provision is not restated in this chapter. The words ''The Secretary of Transportation shall conduct a proceeding, with an opportunity for a hearing on the record, to decide'' are substituted for ''If, on the record after opportunity for agency hearing, the Secretary determines'' in 15:2008 for clarity. The words ''the Secretary shall assess the penalties provided for under subsection (b) of this section'' are omitted as surplus.

In subsection (b), the words ''Compliance is determined after considering credits available to the manufacturer under section 32903 of this title'' are substituted for 15:2007(b) to eliminate unnecessary words. The words ''the Secretary shall conduct a proceeding, with an opportunity for a hearing on the record, to decide'' are substituted for ''the Secretary shall commence a proceeding under paragraph (2) of this subsection'' in 15:2008(a)(1) and ''If, on the record after opportunity for agency hearing, the Secretary determines'' in 15:2008(a)(2) for clarity. The words ''may not conduct'' are substituted for ''(unless'' in 15:2008(a)(1) for clarity.

PUB. L. 103–429

This makes a conforming amendment necessary because of the restatement of 15:2011 as 49:32918 by section 6(43)(A) of the bill.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–429 substituted '', 32917(b), and 32918'' for '', and 32917(b)''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 32912, 32913 of this title.

§ 32912. Civil penalties

(a) GENERAL PENALTY.—A person that violates section 32911(a) of this title is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each day the violation continues.

(b) PENALTY FOR MANUFACTURER VIOLATIONS OF FUEL ECONOMY STANDARDS.—Except as provided in subsection (c) of this section, a manufacturer that violates a standard prescribed for a model year under section 32902 of this title is liable to the Government for a civil penalty of $5 multiplied by each .1 of a mile a gallon by which the applicable average fuel economy standard under that section exceeds the average fuel economy—

(1) calculated under section 32904(a)(1)(A) or (B) of this title for automobiles to which the standard applies manufactured by the manufacturer during the model year;

(2) multiplied by the number of those automobiles; and

(3) reduced by the credits available to the manufacturer under section 32903 of this title for the model year.

(c) HIGHER PENALTY AMOUNTS.—(1)(A) The Secretary of Transportation shall prescribe by regulation a higher amount for each .1 of a mile a gallon to be used in calculating a civil penalty under subsection (b) of this section, if the Secretary decides that the increase in the penalty—

(i) will result in, or substantially further, substantial energy conservation for automobiles in model years in which the increased penalty may be imposed; and

(ii) will not have a substantial deleterious impact on the economy of the United States, a State, or a region of a State.

(B) The amount prescribed under subparagraph (A) of this paragraph may not be more than $10 for each .1 of a mile a gallon.

(C) The Secretary may make a decision under subparagraph (A)(ii) of this paragraph only when the Secretary decides that it is likely that the increase in the penalty will not—

(i) cause a significant increase in unemployment in a State or a region of a State;

(ii) adversely affect competition; or

(iii) cause a significant increase in automobile imports.

(D) A higher amount prescribed under subparagraph (A) of this paragraph is effective for the model year beginning at least 18 months after the regulation stating the higher amount becomes final.

(2) The Secretary shall publish in the Federal Register a proposed regulation under this subsection and a statement of the basis for the regulation and provide each manufacturer of automobiles a copy of the proposed regulation and the statement. The Secretary shall provide a period of at least 45 days for written public comments on the proposed regulation. The Secretary shall submit a copy of the proposed regulation to the Federal Trade Commission and request the Commission to comment on the proposed regulation within that period. After that period, the Secretary shall give interested persons and the Commission an opportunity at a public hearing to present oral information, views, and arguments and to direct questions about disputed issues of material fact to—

(A) other interested persons making oral presentations;

(B) employees and contractors of the Government that made written comments or an oral presentation or participated in the development or consideration of the proposed regulation; and

(C) experts and consultants that provided information to a person that the person includes, or refers to, in an oral presentation.

(3) The Secretary may restrict the questions of an interested person and the Commission when the Secretary decides that the questions are duplicative or not likely to result in a timely and effective resolution of the issues. A transcript shall be kept of a public hearing under this subsection. A copy of the transcript and written comments shall be available to the public at the cost of reproduction.

(4) The Secretary shall publish a regulation prescribed under this subsection in the Federal Register with the decisions required under paragraph (1) of this subsection.

(5) An officer or employee of a department, agency, or instrumentality of the Government violates section 1905 of title 18 by disclosing, except in an in camera proceeding by the Secretary or a court, information—

(A) provided to the Secretary or the court during consideration or review of a regulation prescribed under this subsection; and

(B) decided by the Secretary to be confidential under section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796(d)).

(d) WRITTEN NOTICE REQUIREMENT.—The Secretary shall impose a penalty under this section by written notice.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1072.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32912(a)	15:2008(b)(2).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §508(b)(1)–(3) (1st sentence); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 913; Oct. 10, 1980, Pub. L. 96–425, §§6(c)(1), (3), 8(f), 94 Stat. 1827, 1828, 1829.
32912(b)	15:2008(b)(1).	
32912(c)(1) ..	15:2008(d).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §508(d), (e)(1), (2), (4); added Nov. 9, 1978, Pub. L. 95–619, §402, 92 Stat. 3255, 3256.
32912(c)(2), (3).	15:2008(e)(1).	
32912(c)(4) ..	15:2008(e)(2).	
32912(c)(5) ..	15:2008(e)(4).	
32912(d)	15:2008(b)(3) (1st sentence).	

In this section, the words ''whom the Secretary determines under subsection (a) of this section'' are omitted as surplus.

In subsection (b), before clause (1)(A), the words ''Except as provided in subsection (c) of this section'' are added for clarity. The words ''that violates a standard prescribed for a model year under section 32902 of this title'' are substituted for ''to have violated a provision

of section 2007(a)(1) of this title with respect to any model year'' and ''to have violated section 2007(a)(2) of this title'' to avoid referring, as in the source, to one provision that in turn refers to another provision. In clause (1), the words ''calculated under'' are substituted for ''established under'' for clarity. The reference to section 32904(a)(1)(A), which is a reference to the provision under which average fuel economy for nonpassenger automobiles is calculated, is added for clarity. The reference to section 32904(a)(1)(B), which is a reference to the provision under which average fuel economy for passenger automobiles is calculated, is substituted for the reference in the source to 15:2002(a) and (c), which is a reference to the provision under which the average fuel economy standard for those automobiles is established, for clarity. The words ''in which the violation occurs'' are omitted as surplus.

In subsection (c)(1)(A), before clause (i), the words ''shall prescribe by regulation'' are substituted for ''shall, by rule . . . substitute'' for consistency in the revised title and because ''rule'' and ''regulation'' are synonymous. The words ''in accordance with the provisions of this subsection and subsection (e)'' are omitted as surplus. The words ''be less than $5.00'' are omitted as surplus because under the subsection the Secretary may only raise the amount imposed to $10, or a $5 increase. The words ''in the absence of such rule'' are omitted as surplus. The words ''increase in the penalty'' are substituted for ''additional amount of the civil penalty'' for clarity. In clause (ii), the words ''subject to subparagraph (B)'' are omitted as surplus.

In subsection (c)(1)(C), the words ''the later of'' and the text of 15:2008(d)(3)(A) are omitted as obsolete.

In subsection (c)(2), before clause (A), the words ''After the Secretary of Transportation develops a proposed rule pursuant to subsection (d) of this section'' are omitted as surplus. In clause (B), the words ''written comments or an oral presentation'' are substituted for ''written or oral presentations'' for consistency in the section. The text of 15:2008(e)(1)(B) (last sentence) and (C) is omitted as surplus because of 5:556(d).

In subsection (c)(5), before clause (A), the words ''department, agency, or instrumentality'' are substituted for ''department or agency'' for consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 32909, 32913, 32914, 32915 of this title.

§ 32913. Compromising and remitting civil penalties

(a) GENERAL AUTHORITY AND LIMITATIONS.—The Secretary of Transportation may compromise or remit the amount of a civil penalty imposed under section 32912(a) or (b) of this title. However, the amount of a penalty imposed under section 32912(b) may be compromised or remitted only to the extent—

(1) necessary to prevent the insolvency or bankruptcy of the manufacturer of automobiles;

(2) the manufacturer shows that the violation was caused by an act of God, a strike, or a fire; or

(3) the Federal Trade Commission certifies under subsection (b)(1) of this section that a reduction in the penalty is necessary to prevent a substantial lessening of competition.

(b) CERTIFICATION BY COMMISSION.—(1) A manufacturer liable for a civil penalty under section 32912(b) of this title may apply to the Commission for a certification that a reduction in the penalty is necessary to prevent a substantial lessening of competition in the segment of the motor vehicle industry subject to the standard that was violated. The Commission shall make the certification when it finds that reduction is necessary to prevent the lessening. The Commission shall state in the certification the maximum amount by which the penalty may be reduced.

(2) An application under this subsection must be made not later than 30 days after the Secretary decides that the manufacturer has violated section 32911(b) of this title. To the maximum extent practicable, the Commission shall make a decision on an application by the 90th day after the application is filed. A proceeding under this subsection may not delay the manufacturer's liability for the penalty for more than 90 days after the application is filed.

(3) When a civil penalty is collected in a civil action under this chapter before a decision of the Commission under this subsection is final, the payment shall be paid to the court in which the action was brought. The court shall deposit the payment in the general fund of the Treasury on the 90th day after the decision of the Commission becomes final. When the court is holding payment of a penalty reduced under subsection (a)(3) of this section, the Secretary shall direct the court to remit the appropriate amount of the penalty to the manufacturer.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1073; Pub. L. 103–429, § 6(41), Oct. 31, 1994, 108 Stat. 4382; Pub. L. 104–287, § 6(d)(1)(A), Oct. 11, 1996, 110 Stat. 3399.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32913(a)	15:2008(b)(3) (2d sentence).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 508(b)(3) (2d sentence), (4), (5); added Dec. 22, 1975, Pub. L. 94–163, § 301, 89 Stat. 913; Oct. 10, 1980, Pub. L. 96–425, § 6(c)(1), 94 Stat. 1827.
32913(b)	15:2008(b)(4), (5).	

In subsection (a), before clause (1), the words ''compromise or remit'' are substituted for ''compromise, modify, or remit, with or without conditions'' for consistency in the revised title. The words ''against any person'' are omitted as surplus. The reference to section 32912(b) (a restatement of 15:2008(b)(1)) is used rather than a reference to 32911(b) (a restatement of 15:2007(a)(1) or (2)) to avoid referring, as in the source, to one provision that in turn refers to another provision. In clause (3), the word ''reduction'' is substituted for ''modification'' for clarity. The words ''as determined under paragraph (4)'' are omitted as surplus.

In subsection (b)(1), the words ''the standard that was violated'' are substituted for ''the standard with respect to which such penalty was assessed'', and the words ''The Commission shall make the certification when it finds that reduction'' are substituted for ''If the manufacturer shows and the Federal Trade Commission determines that modification of the civil penalty for which such manufacturer is otherwise liable . . . the Commission shall so certify'', to eliminate unnecessary words.

In subsection (b)(3), the words ''When a civil penalty is collected in a civil action under this chapter'' are substituted for ''but any payment made'' for clarity. The words ''action was brought'' are substituted for ''the penalty is collected'' for consistency. The words ''and shall (except as otherwise provided in paragraph

(5)), be held by such court'' are omitted as surplus. The words ''When the court is holding payment of a penalty reduced under subsection (a)(3) of this section'' are substituted for ''Whenever a civil penalty has been assessed and collected from a manufacturer under this section, and is being held by a court in accordance with paragraph (4), and the Secretary subsequently determines to modify such civil penalty pursuant to paragraph (3)(C)'' to eliminate unnecessary words.

PUB. L. 103–429

This amends 49:32913(b)(1) to clarify the restatement of 15:2008(b)(4) and (5) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1073).

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–287 made technical amendment to directory language of Pub. L. 103–429, § 6(41). See 1994 Amendment notes below.

1994—Subsec. (b). Pub. L. 103–429, § 6(41)(A), as amended by Pub. L. 104–287, substituted ''Certification'' for ''Penalty Reduction'' in heading.

Subsec. (b)(1). Pub. L. 103–429, § 6(41)(B), as amended by Pub. L. 104–287, substituted ''a reduction in the penalty is necessary'' for ''the penalty should be reduced''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 6(d) of Pub. L. 104–287 provided that the amendment made by that section is effective Oct. 31, 1994.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 32914, 32915 of this title.

§ 32914. Collecting civil penalties

(a) CIVIL ACTIONS.—If a person does not pay a civil penalty after it becomes a final order of the Secretary of Transportation or a judgment of a court of appeals of the United States for a circuit, the Attorney General shall bring a civil action in an appropriate district court of the United States to collect the penalty. The validity and appropriateness of the final order imposing the penalty is not reviewable in the action.

(b) PRIORITY OF CLAIMS.—A claim of a creditor against a bankrupt or insolvent manufacturer of automobiles has priority over a claim of the United States Government against the manufacturer for a civil penalty under section 32912(b) of this title when the creditor's claim is for credit extended before a final judgment (without regard to section 32913(b)(1) and (2) of this title) in an action to collect under subsection (a) of this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1074.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32914(a)	15:2008(b)(3) (last sentence), (c)(2).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 508(b)(3) (last sentence), (6), (c)(2); added Dec. 22, 1975, Pub. L. 94–163, § 301, 89 Stat. 913, 914.
32914(b)	15:2008(b)(6).	

In subsection (a), the text of 15:2008(b)(3) (last sentence) is omitted as surplus because of 28:516 and 2461(a). The words ''an assessment of'' and ''and unappealable'' are omitted as surplus. The words ''of the Secretary of Transportation'' are added for clarity. The words ''for a circuit'' are added for consistency. The words ''in favor of the Secretary'' are omitted as surplus. The words ''shall bring a civil action . . . to collect the penalty'' are substituted for ''shall recover the amount for which the manufacturer is liable'' for consistency.

In subsection (b), the words ''A claim of a creditor against a bankrupt or insolvent manufacturer of automobiles has priority over a claim of the United States Government against the manufacturer'' are substituted for ''A claim of the United States . . . against a manufacturer . . . shall, in the case of the bankruptcy or insolvency of such manufacturer, be subordinate to any claim of a creditor of such manufacturer'' for clarity and to eliminate unnecessary words. The words ''the date on which'' are omitted as surplus.

§ 32915. Appealing civil penalties

Any interested person may appeal a decision of the Secretary of Transportation to impose a civil penalty under section 32912(a) or (b) of this title, or of the Federal Trade Commission under section 32913(b)(1) of this title, in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. A person appealing a decision must file a notice of appeal with the court not later than 30 days after the decision and, at the same time, send a copy of the notice by certified mail to the Secretary or the Commission. The Secretary or the Commission promptly shall file with the court a certified copy of the record of the proceeding in which the decision was made.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1074.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32915	15:2008(c)(1).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 508(c)(1); added Dec. 22, 1975, Pub. L. 94–163, § 301, 89 Stat. 914.

The words ''as the case may be'' are omitted as surplus. The text of 15:2008(c)(1) (last sentence) is omitted as surplus because 5:ch. 7 applies unless otherwise stated.

§ 32916. Reports to Congress

(a) ANNUAL REPORT.—Not later than January 15 of each year, the Secretary of Transportation shall submit to each House of Congress, and publish in the Federal Register, a report on the review by the Secretary of average fuel economy standards prescribed under this chapter.

(b) JOINT EXAMINATIONS AFTER GRANTING EXEMPTIONS.—(1) After an exemption has been granted under section 32904(b)(6) of this title, the Secretaries of Transportation and Labor shall conduct annually a joint examination of the extent to which section 32904(b)(6)—

(A) achieves the purposes of this chapter;

(B) improves fuel efficiency (thereby facilitating conservation of petroleum and reducing petroleum imports);

(C) has promoted employment in the United States related to automobile manufacturing;

(D) has not caused unreasonable harm to the automobile manufacturing sector in the United States; and

(E) has permitted manufacturers that have assembled passenger automobiles deemed to be manufactured domestically under section 32904(b)(2) of this title thereafter to assemble in the United States passenger automobiles of the same model that have less than 75 percent of their value added in the United States or Canada, together with the reasons.

(2) The Secretary of Transportation shall include the results of the examination under paragraph (1) of this subsection in each report submitted under subsection (a) of this section more than 180 days after an exemption has been granted under section 32904(b)(6) of this title, or submit the results of the examination directly to Congress before the report is submitted when circumstances warrant.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1074; Pub. L. 103–429, § 6(42), Oct. 31, 1994, 108 Stat. 4382.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32916(a)	15:2002(a)(2).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 502(a)(2); added Dec. 22, 1975, Pub. L. 94–163, § 301, 89 Stat. 902.
32916(b)(1) ..	15:2012(c)(1).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 512(c); added Oct. 10, 1980, Pub. L. 96–425, § 4(a)(2), 94 Stat. 1823.
32916(b)(2) ..	15:2012(c)(2).	

In subsection (a), the words ''a report on the review by the Secretary'' are substituted for ''a review'' for clarity. The words ''beginning in 1977'' and the text of 15:2002(a) (2d, last sentences) are omitted as executed.

In subsection (b)(1), before clause (A), reference to section 32904(b)(4) the 2d time it appears is substituted for ''the amendment made to section 2003(b) of this title by section 4(a)(1) of the Automobile Fuel Efficiency Act of 1980'' for clarity and to eliminate unnecessary words. Clause (B) is substituted for ''achieves the purposes of that Act'' for clarity.

In subsection (b)(2), the reference to ''subsection (a) of this section'' is restated to refer to 15:2002(a) rather than 15:2012(a) to reflect the apparent intent of Congress. Although 15:2012(c)(2) refers to an annual report under 15:2012(a), that provision does not provide for an annual report.

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This makes conforming amendments necessary because of the restatement of 15:2003(b)(2)(G) as 49:32904(b)(3) by section 6(36)(B) of the bill.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–429, in par. (1), introductory provisions, substituted ''32904(b)(6)'' for ''32904(b)(4)'' in two places, in par. (1)(E), substituted ''32904(b)(2)'' for ''32904(b)(1)(A)'', and in par. (2), substituted ''32904(b)(6)'' for ''32904(b)(4)''.

§ 32917. Standards for executive agency automobiles

(a) DEFINITION.—In this section, ''executive agency'' has the same meaning given that term in section 105 of title 5.

(b) FLEET AVERAGE FUEL ECONOMY.—(1) The President shall prescribe regulations that require passenger automobiles leased for at least 60 consecutive days or bought by executive agencies in a fiscal year to achieve a fleet average fuel economy (determined under paragraph (2) of this subsection) for that year of at least the greater of—

(A) 18 miles a gallon; or

(B) the applicable average fuel economy standard under section 32902(b) or (c) of this title for the model year that includes January 1 of that fiscal year.

(2) Fleet average fuel economy is—

(A) the total number of passenger automobiles leased for at least 60 consecutive days or bought by executive agencies in a fiscal year (except automobiles designed for combat-related missions, law enforcement work, or emergency rescue work); divided by

(B) the sum of the fractions obtained by dividing the number of automobiles of each model leased or bought by the fuel economy of that model.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1075.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32917(a)	15:2010(b)(2).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 510; added Dec. 22, 1975, Pub. L. 94–163, § 301, 89 Stat. 915.
32917(b)	15:2010(a), (b)(1), (3).	

In subsection (b)(1), before clause (A), the words ''within 120 days after December 22, 1975'' and ''which begins after December 22, 1975'' are omitted as executed. The words ''(determined under paragraph (2) of this subsection)'' are added for clarity.

In subsection (b)(2), before clause (A), the words ''As used in this section: (1) The term'' are omitted as surplus. In clause (A), the words ''to which this section applies'' and ''for the Armed Forces'' are omitted as surplus. In clause (B), the words ''the sum of the fractions obtained'' are substituted for ''a sum of terms, each term of which is a fraction created'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32911 of this title.

§ 32918. Retrofit devices

(a) DEFINITION.—In this section, the term ''retrofit device'' means any component, equipment, or other device—

(1) that is designed to be installed in or on an automobile (as an addition to, as a replacement for, or through alteration or modification of, any original component, equipment, or other device); and

(2) that any manufacturer, dealer, or distributor of the device represents will provide higher fuel economy than would have resulted with the automobile as originally equipped,

as determined under regulations of the Administrator of the Environmental Protection Agency. The term also includes a fuel additive for use in an automobile.

(b) EXAMINATION OF FUEL ECONOMY REPRESENTATIONS.—The Federal Trade Commission shall establish a program for systematically examin-

ing fuel economy representations made with respect to retrofit devices. Whenever the Commission has reason to believe that any representation may be inaccurate, the Commission shall request the Administrator to evaluate, in accordance with subsection (c) of this section, the retrofit device with respect to which the representation was made.

(c) EVALUATION OF RETROFIT DEVICES.—(1) On application of any manufacturer of a retrofit device (or prototype of a retrofit device), on request of the Commission under subsection (b) of this section, or on the motion of the Administrator, the Administrator shall evaluate, in accordance with regulations prescribed under subsection (e) of this section, any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations, if any, made with respect to the retrofit device are accurate.

(2) If under paragraph (1) of this subsection, the Administrator tests, or causes to be tested, any retrofit device on the application of a manufacturer of the device, the manufacturer shall supply, at the manufacturer's expense, one or more samples of the device to the Administrator and shall be liable for the costs of testing incurred by the Administrator. The procedures for testing retrofit devices so supplied may include a requirement for preliminary testing by a qualified independent testing laboratory, at the expense of the manufacturer of the device.

(d) RESULTS OF TESTS AND PUBLICATION IN FEDERAL REGISTER.—(1) The Administrator shall publish in the Federal Register a summary of the results of all tests conducted under this section, together with the Administrator's conclusions as to—

(A) the effect of any retrofit device on fuel economy;

(B) the effect of the device on emissions of air pollutants; and

(C) any other information the Administrator determines to be relevant in evaluating the device.

(2) The summary and conclusions shall also be submitted to the Secretary of Transportation and the Commission.

(e) REGULATIONS ESTABLISHING TESTS AND PROCEDURES FOR EVALUATION OF RETROFIT DEVICES.—The Administrator shall prescribe regulations establishing—

(1) testing and other procedures for evaluating the extent to which retrofit devices affect fuel economy and emissions of air pollutants; and

(2) criteria for evaluating the accuracy of fuel economy representations made with respect to retrofit devices.

(Pub. L. 103–429, §6(43)(B), Oct. 31, 1994, 108 Stat. 4382.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32918	15:2011.	Oct. 20, 1972, Pub. L. 92–513, §511, as added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 915, and amended July 5, 1994, Pub. L. 103–272, §4(c), 108 Stat. 1361.

This restates 15:2011 to include 15:2011 in the scope of the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 745).

In subsection (a), the words ''Administrator of the Environmental Protection Agency'' are substituted for ''Administrator'' for clarity and to conform to the style of the codification which is to state the complete title the first time a descriptive title is used, and thereafter, to use a shorter title unless the context requires the complete title to be used.

In subsections (c) and (e), the word ''regulations'' is substituted for ''rules'' and ''by rule'' for consistency with the restatement of title 49.

In subsection (e)(1), the words ''The Administrator shall prescribe regulations establishing'' are substituted for ''Within 180 days after December 22, 1975, the Administrator shall, by rule, establish'' to eliminate executed words.

PRIOR PROVISIONS

A prior section 32918 was renumbered section 32919 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32911 of this title.

§ 32919. Preemption

(a) GENERAL.—When an average fuel economy standard prescribed under this chapter is in effect, a State or a political subdivision of a State may not adopt or enforce a law or regulation related to fuel economy standards or average fuel economy standards for automobiles covered by an average fuel economy standard under this chapter.

(b) REQUIREMENTS MUST BE IDENTICAL.—When a requirement under section 32908 of this title is in effect, a State or a political subdivision of a State may adopt or enforce a law or regulation on disclosure of fuel economy or fuel operating costs for an automobile covered by section 32908 only if the law or regulation is identical to that requirement.

(c) STATE AND POLITICAL SUBDIVISION AUTOMOBILES.—A State or a political subdivision of a State may prescribe requirements for fuel economy for automobiles obtained for its own use.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1075, §32918; renumbered §32919, Pub. L. 103–429, §6(43)(A), Oct. 31, 1994, 108 Stat. 4382.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32918	15:2009.	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §509; added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 914.

In subsection (a), the word ''prescribed'' is substituted for ''established'' for consistency.

AMENDMENTS

1994—Pub. L. 103–429 renumbered section 32918 of this title as this section.

CHAPTER 331—THEFT PREVENTION

Sec.
33101. Definitions.
33102. Theft prevention standard for high theft lines.
33103. Theft prevention standard for other lines.
33104. Designation of high theft vehicle lines and parts.

Sec.
33105. Cost limitations.
33106. Exemption for passenger motor vehicles equipped with anti-theft devices.
33107. Voluntary vehicle identification standards.
33108. Monitoring compliance of manufacturers.
33109. National Stolen Passenger Motor Vehicle Information System.
33110. Verifications involving junk and salvage motor vehicles.
33111. Verifications involving motor vehicle major parts.
33112. Insurance reports and information.
33113. Theft reports.
33114. Prohibited acts.
33115. Civil penalties and enforcement.
33116. Confidentiality of information.
33117. Judicial review.
33118. Preemption of State and local law.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 32705 of this title; title 18 section 2721.

§ 33101. Definitions

In this chapter—

(1) ''chop shop'' means a building, lot, facility, or other structure or premise at which at least one person engages in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing a passenger motor vehicle or passenger motor vehicle part that has been unlawfully obtained—

(A) to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity of the vehicle or part, including the vehicle identification number or a derivative of that number; and

(B) to distribute, sell, or dispose of the vehicle or part in interstate or foreign commerce.

(2) ''covered major part'' means a major part selected under section 33104 of this title for coverage by the vehicle theft prevention standard prescribed under section 33102 or 33103 of this title.

(3) ''existing line'' means a line introduced into commerce before January 1, 1990.

(4) ''first purchaser'' means the person making the first purchase other than for resale.

(5) ''line'' means a name that a manufacturer of motor vehicles applies to a group of motor vehicle models of the same make that have the same body or chassis, or otherwise are similar in construction or design.

(6) ''major part'' means—

(A) the engine;

(B) the transmission;

(C) each door to the passenger compartment;

(D) the hood;

(E) the grille;

(F) each bumper;

(G) each front fender;

(H) the deck lid, tailgate, or hatchback;

(I) each rear quarter panel;

(J) the trunk floor pan;

(K) the frame or, for a unitized body, the supporting structure serving as the frame; and

(L) any other part of a passenger motor vehicle that the Secretary of Transportation by regulation specifies as comparable in design or function to any of the parts listed in subclauses (A)–(K) of this clause.

(7) ''major replacement part'' means a major part that is—

(A) an original major part in or on a completed motor vehicle and customized or modified after manufacture of the vehicle but before the time of its delivery to the first purchaser; or

(B) not installed in or on a motor vehicle at the time of its delivery to the first purchaser and the equitable or legal title to the vehicle has not been transferred to a first purchaser.

(8) ''model year'' has the same meaning given that term in section 32901(a) of this title.

(9) ''new line'' means a line introduced into commerce after December 31, 1989.

(10) ''passenger motor vehicle'' includes a multipurpose passenger vehicle or light duty truck when that vehicle or truck is rated at not more than 6,000 pounds gross vehicle weight.

(11) ''vehicle theft prevention standard'' means a minimum performance standard for identifying major parts of new motor vehicles and major replacement parts by inscribing or affixing numbers or symbols on those parts.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1076; Pub. L. 103–429, § 6(44), Oct. 31, 1994, 108 Stat. 4383; Pub. L. 104–287, § 6(d)(1)(B), Oct. 11, 1996, 110 Stat. 3399.)

HISTORICAL AND REVISION NOTES
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Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33101(1)	15:2021(11).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 601(11); added Oct. 25, 1992, Pub. L. 102–519, § 301(b), 106 Stat. 3394.
33101(2)	15:2021(6).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 601(2)–(7), (9), (10); added Oct. 25, 1984, Pub. L. 98–547, § 101(a), 98 Stat. 2755, 2756.
33101(3)	15:2021(3).	
33101(4)	15:2021(5).	
33101(5)	15:2021(2).	
33101(6)	15:2021(7).	
33101(7)	15:2021(8).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 601(1), (8); added Oct. 25, 1984, Pub. L. 98–547, § 101(a), 98 Stat. 2755; restated Oct. 25, 1992, Pub. L. 102–519, § 301(a), (c), 106 Stat. 3393, 3394.
33101(8)	15:2021(9).	
33101(9)	15:2021(4).	
33101(10)	15:2021(1).	
33101(11)	15:2021(10).	

In clause (2), the words ''section 33102(c)(1)'' are substituted for ''section 2022(d)(1)(B)'' to correct an erroneous cross-reference. Section 302(1) of the Act of October 25, 1992 (Public Law 102–519, 106 Stat. 3394), restated section 602(d)(1)(A) and (B) of the Motor Vehicle Information and Cost Savings Act (Public Law 92–513, 86 Stat. 947) as section 602(d)(1) without making a corresponding change in the cross-reference restated in this section.

In clause (3), the words ''before January 1, 1990'' are substituted for ''before the beginning of the 2-year period specified in section 2023(a)(1)(A) of this title'' for clarity. See the revision notes for section 33104 of the revised title.

In clause (5), the words ''of motor vehicles'' are added for consistency in this chapter.

Clause (6)(I) is substituted for ''rear quarter panels'' for clarity and consistency.

In clause (7)(A), the word ''completed'' is omitted as unnecessary because of the restatement.

In clause (9), the words ''after December 31, 1989'' are substituted for ''on or after the beginning of the 2-year period specified in section 2023(a)(1)(A) of this title'' for clarity and consistency.

PUB. L. 103–429, § 6(44)(A)

This corrects a cross-reference in 49:33101(2) by eliminating the reference to 49:33102(c)(1). Section 302(1) of the Anti Car Theft Act of 1992 (Public Law 102–519, 106 Stat. 3394) restated section 602(d)(1)(A) and (B) of the Motor Vehicle Information and Cost Savings Act (Public Law 92–513, 86 Stat. 947) as section 602(d)(1) without making a change in the cross-reference in section 601(6) to section 602(d)(1)(B).

PUB. L. 103–429, § 6(44)(B)

This makes a conforming amendment for consistency with the style of title 49.

AMENDMENTS

1996—Pub. L. 104–287 made technical amendment to directory language of Pub. L. 103–429, § 6(44)(B). See 1994 Amendment note below.

1994—Par. (2). Pub. L. 103–429, § 6(44)(B), as amended by Pub. L. 104–287, inserted ''of this title'' before period at end.

Pub. L. 103–429, § 6(44)(A), substituted ''section 33104'' for ''sections 33102(c)(1) and 33104''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 6(d) of Pub. L. 104–287 provided that the amendment made by that section is effective Oct. 31, 1994.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32101 of this title.

§ 33102. Theft prevention standard for high theft lines

(a) GENERAL.—(1) The Secretary of Transportation by regulation shall prescribe a vehicle theft prevention standard that conforms to the requirements of this chapter. The standard shall apply to—

(A) covered major parts that manufacturers install in passenger motor vehicles in lines designated under section 33104 of this title as high theft lines; and

(B) major replacement parts for the major parts described in clause (A) of this paragraph.

(2) The standard may apply only to—

(A) major parts that manufacturers install in passenger motor vehicles having a model year designation later than the calendar year in which the standard takes effect; and

(B) major replacement parts manufactured after the standard takes effect.

(b) STANDARD REQUIREMENTS.—The standard shall be practicable and provide relevant objective criteria.

(c) LIMITATIONS ON MAJOR PART AND REPLACEMENT PART STANDARDS.—(1) For a major part installed by the manufacturer of the motor vehicle, the standard may not require a part to have more than one identification.

(2) For a major replacement part, the standard may not require—

(A) identification of a part not designed as a replacement for a major part required to be identified under the standard; or

(B) the inscribing or affixing of identification except a symbol identifying the manufacturer and a common symbol identifying the part as a major replacement part.

(d) RECORDS AND REPORTS.—This chapter does not authorize the Secretary to require a person to keep records or make reports, except as provided in sections 33104(c), 33106(c), 33108(a), and 33112 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1077.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33102(a)(1) ..	15:2022(a).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 602(a), (b), (c)(1)–(3), (5), (d)(2); added Oct. 25, 1984, Pub. L. 98–547, § 101(a), 98 Stat. 2756.
33102(a)(2) ..	15:2022(c)(1)–(3), (5).	
33102(b)	15:2022(b).	
33102(c)	15:2022(d)(1).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 602(d)(1); added Oct. 25, 1984, Pub. L. 98–547, § 101(a), 98 Stat. 2756; restated Oct. 25, 1992, Pub. L. 102–519, § 302(1), 106 Stat. 3394.
33102(d)	15:2022(e).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 602(e); added Oct. 25, 1984, Pub. L. 98–547, § 101(a), 98 Stat. 2756; Oct. 25, 1992, Pub. L. 102–519, § 306(a), 106 Stat. 3397.

In subsection (a)(1), before clause (A), the words ''in accordance with this section'' are omitted as surplus.

In subsection (a)(2), the text of 15:2022(c)(1)–(3) is omitted as obsolete because the standard has already been prescribed. See 49 C.F.R. part 541.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33101, 33104, 33105, 33106, 33107, 33108, 33112, 33114, 33115, 33118 of this title.

§ 33103. Theft prevention standard for other lines

(a) GENERAL.—Not later than October 25, 1994, the Secretary of Transportation shall prescribe a vehicle theft standard that conforms to the requirements of this chapter for covered major parts that manufacturers install in passenger motor vehicles (except light duty trucks) in not more than 50 percent of the lines not designated under section 33104 of this title as high theft lines.

(b) EXTENSION OF APPLICATION.—(1) Not later than 3 years after the standard is prescribed under subsection (a) of this section and based on the finding of the Attorney General under subsection (c) of this section to apply the standard, the Secretary shall apply that standard to covered major parts and major replacement parts for covered parts that manufacturers install in the lines of passenger motor vehicles (except light duty trucks)—

(A) not designated under section 33104 of this title as high theft lines; and

(B) not covered by the standard prescribed under subsection (a) of this section.

(2) The Secretary shall include as part of the regulatory proceeding under this subsection the finding of, and the record developed by, the Attorney General under subsection (c) of this section.

(c) INITIAL REVIEW OF EFFECTIVENESS.—Before the Secretary begins a regulatory proceeding under subsection (b) of this section, the Attorney General shall make a finding that the Secretary shall apply the standard prescribed under subsection (a) of this section unless the Attorney General finds, based on information collected and analyzed under section 33112 of this title and other information the Attorney General develops after providing notice and an opportunity for a public hearing, that applying the standard prescribed in subsection (a) to the remaining lines of passenger motor vehicles (except light duty trucks) not covered by that standard would not substantially inhibit chop shop operations and motor vehicle thefts. The Attorney General also shall consider and include in the record additional costs, effectiveness, competition, and available alternative factors. The Attorney General shall submit to the Secretary the finding and record on which the finding is based.

(d) LONG RANGE REVIEW OF EFFECTIVENESS.—(1) Not later than December 31, 1999, the Attorney General shall make separate findings, after notice and an opportunity for a public hearing, on the following:

(A) whether the application of the standard under subsection (a) or (b) of this subsection, or both, have been effective in substantially inhibiting the operation of chop shops and motor vehicle theft.

(B) whether the anti-theft devices for which the Secretary has granted exemptions under section 33106 of this title are an effective substitute for parts marking in substantially inhibiting motor vehicle theft.

(2)(A) In making the finding under paragraph (1)(A) of this subsection, the Attorney General shall—

(i) consider the additional cost, competition, and available alternatives;

(ii) base that finding on information collected and analyzed under section 33112 of this title;

(iii) consider the effectiveness, the extent of use, and the extent to which civil and criminal penalties under section 33115(b) of this title and section 2322 of title 18 on chop shops have been effective in substantially inhibiting operation of chop shops and motor vehicle theft;

(iv) base that finding on the 3-year and 5-year reports issued by the Secretary under section 33113 of this title; and

(v) base that finding on other information the Attorney General develops and includes in the public record.

(B) The Attorney General shall submit a finding under paragraph (1)(A) of this subsection promptly to the Secretary. If the Attorney General finds that the application of the standard under subsection (a) or (b) of this section, or both, has not been effective, the Secretary shall issue, not later than 180 days after receiving that finding, an order terminating the standard the Attorney General found was ineffective. The termination is effective for the model year beginning after the order is issued.

(3) In making a finding under paragraph (1)(B) of this subsection, the Secretary shall consider the additional cost, competition, and available alternatives. If the Attorney General finds that the anti-theft devices are an effective substitute, the Secretary shall continue to grant exemptions under section 33106 of this title for the model years after model year 2000 at one of the following levels that the Attorney General decides: at the level authorized before October 25, 1992, or at the level provided in section 33106(b)(2)(C) of this title for model year 2000.

(e) EFFECTIVE DATE OF STANDARD.—A standard prescribed under this section takes effect at least 6 months after the date the standard is prescribed, except that the Secretary may prescribe an earlier effective date if the Secretary—

(1) decides with good cause that the earlier date is in the public interest; and

(2) publishes the reasons for the decision.

(f) NOTIFICATION OF CONGRESS.—The Secretary and the Attorney General shall inform the appropriate legislative committees of Congress with jurisdiction over this part and section 2322 of title 18 of actions taken or planned under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1078.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33103(a)	15:2022(f)(1) (1st sentence).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 602(f); added Oct. 25, 1992, Pub. L. 102–519, § 302(2), 106 Stat. 3394.
33103(b)	15:2022(f)(2) (1st, 2d sentences), (3) (last sentence).	
33103(c)	15:2022(f)(3) (1st–3d sentences).	
33103(d)	15:2022(f)(4), (5).	
33103(e)	15:2022(c)(4).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 602(c)(4); added Oct. 25, 1984, Pub. L. 98–547, § 101(a), 98 Stat. 2756.
	15:2022(f)(1) (last sentence), (2) (last sentence).	
33103(f)	15:2022(f)(6).	

In subsection (a), the words ''foreign and domestic'' are omitted as unnecessary. The words ''as high theft lines'' are added for clarity.

In subsection (b)(1), the words ''to apply the standard'' are added for clarity. The words ''shall apply that standard to covered major parts and major replacement parts for covered parts that manufacturers install in the lines of passenger motor vehicles (except light duty trucks) . . . not designated under section 33104 of this title as high theft lines; and . . . not covered by the standard prescribed under subsection (a) of this section'' are substituted for ''the Secretary . . . shall designate all the remaining such lines of such passenger motor vehicles (other than light-duty trucks) and apply such standard to such lines in conformance with the requirements of this subchapter'' for clarity and because of the restatement.

In subsection (b)(2), the words ''The Secretary shall include as part of the regulatory proceeding under this subsection . . . developed by the Attorney General under subsection (c) of this section'' are substituted for ''shall be a part of the Secretary's rulemaking record'' for clarity.

In subsection (c), the words ''Before the Secretary begins a regulatory proceeding under subsection (b) of this section'' are substituted for ''prior to the Secretary's initiation and promulgation of a rule'' for clarity. The words ''applying the standard prescribed in subsection (a) to the remaining lines of passenger motor vehicles (except light duty trucks) not covered by that standard'' are substituted for ''requiring such additional parts marking for all of the applicable passenger motor vehicles'' for clarity and because of the restatement.

In subsection (d)(1)(A), the words ''whether the application of the standard under subsection (a) or (b) of this subsection, or both'' are substituted for ''whether one or both rules promulgated under this subsection'' for clarity.

In subsection (d)(2)(A)(iii), the words ''civil . . . penalties under section 33115(b) of this title'' are substituted for ''civil . . . penalties under section 2027(b) of this title'' to correct an erroneous cross-reference.

In subsection (d)(3), the words ''for the model years after model year 2000'' are substituted for ''Nothing in this paragraph affects exemptions granted in model year 2000 or earlier to any manufacturer'' to eliminate unnecessary words. The words ''at one of the following levels that the Attorney General decides'' are substituted for ''as determined by the Attorney General'' for clarity.

In subsection (e), the text of 15:2022(c)(4) (related to the standard under 15:2022(c)(1)) is omitted as obsolete because the standard under 15:2022(c)(1) has already been prescribed. See 49 C.F.R. 541.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33101, 33105, 33106, 33107, 33108, 33112, 33114, 33115, 33118 of this title.

§ 33104. Designation of high theft vehicle lines and parts

(a) DESIGNATION, NONAPPLICATION, SELECTION, AND PROCEDURES.—(1) For purposes of the standard under section 33102 of this title, the following are high theft lines:

(A) a passenger motor vehicle line determined under subsection (b) of this section to have had a new passenger motor vehicle theft rate in the 2-year period covering calendar years 1990 and 1991 greater than the median theft rate for all new passenger motor vehicle thefts in that 2-year period.

(B) a passenger motor vehicle line initially introduced into commerce in the United States after December 31, 1989, that is selected under paragraph (3) of this subsection as likely to have a theft rate greater than the median theft rate referred to in clause (A) of this paragraph.

(C) subject to paragraph (2) of this subsection, a passenger motor vehicle line having (for existing lines) or likely to have (for new lines) a theft rate below the median theft rate referred to in clause (A) of this paragraph, if the major parts in the vehicles are selected under paragraph (3) of this subsection as interchangeable with the majority of the major parts that are subject to the standard and are contained in the motor vehicles of a line described in clause (A) or (B) of this paragraph.

(2) The standard may not apply to any major part of a line described in paragraph (1)(C) of this subsection if all the passenger motor vehicles of lines that are, or are likely to be, below the median theft rate, and that contain parts interchangeable with the major parts of the line involved, account (for existing lines), or the Secretary of Transportation determines they are likely to account (for new lines), for more than 90 percent of the total annual production of all lines of that manufacturer containing those interchangeable parts.

(3) The lines, and the major parts of the passenger motor vehicles in those lines, that are to be subject to the standard may be selected by agreement between the manufacturer and the Secretary. If the manufacturer and the Secretary disagree on the selection, the Secretary shall select the lines and parts, after notice to the manufacturer and opportunity for written comment, and subject to the confidentiality requirements of this chapter.

(4) To the maximum extent practicable, the Secretary shall prescribe reasonable procedures designed to ensure that a selection under paragraph (3) of this subsection is made at least 6 months before the first applicable model year beginning after the selection.

(5) A manufacturer may not be required to comply with the standard under a selection under paragraph (3) of this subsection for a model year beginning earlier than 6 months after the date of the selection.

(6) A passenger motor vehicle line subject on October 25, 1992, to parts marking requirements under sections 602 and 603 of the Motor Vehicle Information and Cost Savings Act (Public Law 92–513, 86 Stat. 947), as added by section 101(a) of the Motor Vehicle Theft Law Enforcement Act of 1984 (Public Law 98–547, 98 Stat. 2756), continues to be subject to the requirements of this section and section 33102 of this title unless the line is exempted under section 33106 of this title.

(b) DETERMINING THEFT RATE FOR PASSENGER VEHICLES.—(1) In this subsection, ''new passenger motor vehicle thefts'', when used in reference to a calendar year, means thefts in the United States in that year of passenger motor vehicles with the same model-year designation as that calendar year.

(2) Under subsection (a) of this section, the theft rate for passenger motor vehicles of a line shall be determined by a fraction—

(A) the numerator of which is the number of new passenger motor vehicle thefts for that line during the 2-year period referred to in subsection (a)(1)(A) of this section; and

(B) the denominator of which is the sum of the respective production volumes of all passenger motor vehicles of that line (as reported to the Administrator of the Environmental Protection Agency under chapter 329 of this title) that are of model years 1990 and 1991 and are distributed for sale in commerce in the United States.

(3) Under subsection (a) of this section, the median theft rate for all new passenger motor vehicle thefts during that 2-year period is the theft rate midway between the highest and the lowest theft rates determined under paragraph (2) of this subsection. If there is an even number of theft rates determined under paragraph (2), the median theft rate is the arithmetic average of the 2 adjoining theft rates midway between the highest and the lowest of those theft rates.

(4) In consultation with the Director of the Federal Bureau of Investigation, the Secretary

periodically shall obtain from the most reliable source accurate and timely theft and recovery information and publish the information for review and comment. To the greatest extent possible, the Secretary shall use theft information reported by United States Government, State, and local police. After publication and opportunity for comment, the Secretary shall use the theft information to determine the median theft rate under this subsection. The Secretary and the Director shall take any necessary actions to improve the accuracy, reliability, and timeliness of the information, including ensuring that vehicles represented as stolen are really stolen.

(5) The Secretary periodically (but not more often than once every 2 years) may redetermine and prescribe by regulation the median theft rate under this subsection.

(c) PROVIDING INFORMATION.—The Secretary by regulation shall require each manufacturer to provide information necessary to select under subsection (a)(3) of this section the high theft lines and the major parts to be subject to the standard.

(d) APPLICATION.—Except as provided in section 33106 of this title, the Secretary may not make the standard inapplicable to a line that has been subject to the standard.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1079.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33104(a)	15:2023(a)(1)–(4).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §603(a)(1)–(4), (b)–(d); added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2757; Oct. 25, 1992, Pub. L. 102–519, §303(1)–(3), (5), 106 Stat. 3396.
	15:2023(a)(5).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §§602(g), 603(a)(5); added Oct. 25, 1992, Pub. L. 102–519, §§302(2), 303(4), 106 Stat. 3395, 3396.
33104(b)	15:2022(g). 15:2023(b).	
33104(c)	15:2023(c).	
33104(d)	15:2023(d).	

In subsection (a)(1)(A), the words ''the 2-year period covering calendar years 1990 and 1991'' are substituted for ''the 2 calendar years immediately preceding the year in which the Anti Car Theft Act of 1992 is enacted'' because that Act was enacted on October 25, 1992. The substitution also makes it clear that the 2-year period is to be treated as a single period.

In subsection (a)(1)(B), the words ''after December 31, 1989,'' are substituted for ''after the beginning of the 2-year period specified in subparagraph (A)'' for consistency with clause (A).

In subsection (a)(6), the word ''passenger'' is added because the source provisions in the revised chapter apply to passenger motor vehicles.

In subsection (b)(2)(B), the words ''Administrator of the'' are added for clarity and consistency because of section 1(b) of Reorganization Plan No. 3 of 1970 (eff. Dec. 2, 1970, 84 Stat. 2086). The words ''model years 1983 and 1984'' are substituted for ''the 2 model years having the same model-year designations as the 2 calendar years specified in subsection (a)(1)(A) of this section'' because the particular years are now known.

In subsection (b)(4), the words ''Immediately upon enactment of this subchapter'' are omitted as executed. The words ''or sources'' are omitted because of 1:1.

REFERENCES IN TEXT

Sections 602 and 603 of the Motor Vehicle Information and Cost Savings Act, referred to in subsec. (a)(6), are sections 602 and 603 of Pub. L. 92–513, which were classified to sections 2022 and 2023, respectively, of Title 15, Commerce and Trade, and were repealed and reenacted as sections 33102 to 33104 of this title by Pub. L. 103–272, §§1(e), 7(b), July 5, 1994, 108 Stat. 1077, 1379.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33101, 33102, 33103, 33116 of this title.

§ 33105. Cost limitations

(a) MAXIMUM MANUFACTURER COSTS.—A standard under section 33102 or 33103 of this title may not impose—

(1) on a manufacturer of motor vehicles, compliance costs of more than $15 a motor vehicle; or

(2) on a manufacturer of major replacement parts, compliance costs for each part of more than the reasonable amount (but less than $15) that the Secretary of Transportation specifies in the standard.

(b) COSTS INVOLVED IN ENGINES AND TRANSMISSIONS.—For a manufacturer engaged in identifying engines or transmissions on October 25, 1984, in a way that substantially complies with the standard—

(1) the costs of identifying engines and transmissions may not be considered in calculating the manufacturer's costs under subsection (a) of this section; and

(2) the manufacturer may not be required under the standard to conform to any identification system for engines and transmissions that imposes greater costs on the manufacturer than are incurred under the identification system used by the manufacturer on October 25, 1984.

(c) COST ADJUSTMENTS.—(1) In this subsection—

(A) ''base period'' means calendar year 1984.

(B) ''price index'' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Secretary of Labor.

(2) At the beginning of each calendar year, as necessary data become available from the Bureau of Labor Statistics, the Secretary of Labor shall certify to the Secretary of Transportation and publish in the Federal Register the percentage difference between the price index for the 12 months before the beginning of the calendar year and the price index for the base period. For model years beginning in that calendar year, the amounts specified in subsection (a) of this section shall be adjusted by the percentage difference.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1081.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33105	15:2024.	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §604; added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2758.

In subsection (a)(1) and (2), the words ''compliance costs'' are substituted for ''costs . . . to comply with such standard'' to eliminate unnecessary words. In clause (2), the words ''reasonable amount (but less than $15)'' are substituted for ''reasonable lesser amount'' for clarity.

In subsection (c)(2), the words ''commencing on or after January 1, 1985'' are omitted as obsolete.

§ 33106. Exemption for passenger motor vehicles equipped with anti-theft devices

(a) DEFINITIONS.—In this section—

(1) ''anti-theft device'' means a device to reduce or deter theft that—

(A) is in addition to the theft-deterrent devices required by motor vehicle safety standard numbered 114 in section 571.114 of title 49, Code of Federal Regulations;

(B) the manufacturer believes will be effective in reducing or deterring theft of motor vehicles; and

(C) does not use a signaling device reserved by State law for use on police, emergency, or official vehicles, or on schoolbuses.

(2) ''standard equipment'' means equipment already installed in a motor vehicle when it is delivered from the manufacturer and not an accessory or other item that the first purchaser customarily has the option to have installed.

(b) GRANTING EXEMPTIONS AND LIMITATIONS.—(1) A manufacturer may petition the Secretary of Transportation for an exemption from a requirement of a standard prescribed under section 33102 or 33103 of this title for a line of passenger motor vehicles equipped as standard equipment with an anti-theft device that the Secretary decides is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the standard.

(2) The Secretary may grant an exemption—

(A) for model year 1987, for not more than 2 lines of a manufacturer;

(B) for each of the model years 1988–1996, for not more than 2 additional lines of a manufacturer;

(C) for each of the model years 1997–2000, for not more than one additional line of a manufacturer; and

(D) for each of the model years after model year 2000, for the number of lines that the Attorney General decides under section 33103(d)(3) of this title.

(3) An additional exemption granted under paragraph (2)(B) or (C) of this subsection does not affect an exemption previously granted.

(c) PETITIONING PROCEDURE.—A petition must be filed not later than 8 months before the start of production for the first model year covered by the petition. The petition must include—

(1) a detailed description of the device;

(2) the reasons for the manufacturer's conclusion that the device will be effective in reducing and deterring theft of motor vehicles; and

(3) additional information the Secretary reasonably may require to make the decision described in subsection (b)(1) of this section.

(d) DECISIONS AND APPROVALS.—The Secretary shall make a decision about a petition filed under this section not later than 120 days after the date the petition is filed. A decision approving a petition must be based on substantial evidence. The Secretary may approve a petition in whole or in part. If the Secretary does not make a decision within the 120-day period, the petition shall be deemed to be approved and the manufacturer shall be exempt from the standard for the line covered by the petition for the subsequent model year.

(e) RESCISSIONS.—The Secretary may rescind an exemption if the Secretary decides that the anti-theft device has not been as effective in reducing and deterring motor vehicle theft as compliance with the standard. A rescission may be effective only—

(1) for a model year after the model year in which the rescission occurs; and

(2) at least 6 months after the manufacturer receives written notice of the rescission from the Secretary.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1082; Pub. L. 103–429, § 6(45), Oct. 31, 1994, 108 Stat. 4383.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33106(a)(1) ..	15:2025(e).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 605(a)(1), (3), (b)–(e); added Oct. 25, 1984, Pub. L. 98–547, § 101(a), 98 Stat. 2759.
33106(a)(2) ..	15:2025(a)(3).	
33106(b)	15:2025(a)(1), (2).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 605(a)(2); added Oct. 25, 1984, Pub. L. 98–547, § 101(a), 98 Stat. 2759; Oct. 25, 1992, Pub. L. 102–519, § 304, 106 Stat. 3396.
33106(c)	15:2025(b).	
33106(d)	15:2025(c).	
33106(e)	15:2025(d).	

In subsection (b)(1), the words ''the application of any of'' are omitted as surplus. The words ''or lines'' are omitted because of 1:1.

In subsection (b)(2)(A), the words ''for model year 1987'' are substituted for ''For the initial model year to which such standard applies'' for clarity. See 50 Fed. Reg. 43166 (1985). In clause (D), the words ''that the Attorney General decides'' are substituted for ''for which the Secretary may grant such an exemption (if any) shall be determined'' for clarity and because of the restatement.

In subsection (d), the words ''for the line covered by the petition'' are added for clarity.

Subsection (e) is substituted for 15:2025(d) for clarity and to eliminate unnecessary words.

PUB. L. 103–429

This amends 49:33106(b)(3) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1082).

AMENDMENTS

1994—Subsec. (b)(3). Pub. L. 103–429 substituted ''paragraph (2)(B) or (C) of this subsection'' for ''subparagraph (2)(B) or (C) of this paragraph''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33102, 33103, 33104 of this title.

§ 33107. Voluntary vehicle identification standards

(a) ELECTION TO INSCRIBE OR AFFIX IDENTIFYING MARKS.—The Secretary of Transportation by regulation may prescribe a vehicle theft prevention standard under which a person may elect to inscribe or affix an identifying number or symbol on major parts of a motor vehicle manufactured or owned by the person for purposes of section 511 of title 18 and related provisions. The standard may include provisions for registration of the identification with the Secretary or a person designated by the Secretary.

(b) STANDARD REQUIREMENTS.—The standard under this section shall be practicable and provide relevant objective criteria.

(c) VOLUNTARY COMPLIANCE.—Compliance with the standard under this section is voluntary. Failure to comply does not subject a person to a penalty or enforcement under this chapter.

(d) COMPLIANCE WITH OTHER STANDARDS.—Compliance with the standard under this section does not relieve a manufacturer from a requirement of a standard prescribed under section 33102 or 33103 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1083.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33107	15:2033.	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 616; added Oct. 25, 1984, Pub. L. 98–547, § 101(a), 98 Stat. 2765; Oct. 25, 1992, Pub. L. 102–519, § 306(a), 106 Stat. 3397.

§ 33108. Monitoring compliance of manufacturers

(a) RECORDS, REPORTS, INFORMATION, AND INSPECTION.—To enable the Secretary of Transportation to decide whether a manufacturer of motor vehicles containing a part subject to a standard prescribed under section 33102 or 33103 of this title, or a manufacturer of major replacement parts subject to the standard, is complying with this chapter and the standard, the Secretary may require the manufacturer to—

(1) keep records;

(2) make reports;

(3) provide items and information; and

(4) allow an officer or employee designated by the Secretary to inspect the vehicles and parts and relevant records of the manufacturer.

(b) ENTRY AND INSPECTION.—To enforce this chapter, an officer or employee designated by the Secretary, on presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, may inspect a facility in which motor vehicles containing major parts subject to the standard, or major replacement parts subject to the standard, are manufactured, held for introduction into interstate commerce, or held for sale after introduction into interstate commerce. An inspection shall be conducted at a reasonable time, in a reasonable way, and with reasonable promptness.

(c) CERTIFICATION OF COMPLIANCE.—(1) A manufacturer of a motor vehicle subject to the standard, and a manufacturer of a major replacement part subject to the standard, shall provide at the time of delivery of the vehicle or part a certification that the vehicle or part conforms to the applicable motor vehicle theft prevention standard. The certification shall accompany the vehicle or part until its delivery to the first purchaser. The Secretary by regulation may prescribe the type and form of the certification.

(2) This subsection does not apply to a motor vehicle or major replacement part that is—

(A) intended only for export;

(B) labeled only for export on the vehicle or replacement part and the outside of any container until exported; and

(C) exported.

(d) NOTIFICATION OF ERROR.—A manufacturer shall notify the Secretary if the manufacturer discovers that—

(1) there is an error in the identification (required by the standard) applied to a major part installed by the manufacturer in a motor vehicle during its assembly, or to a major replacement part manufactured by the manufacturer; and

(2) the motor vehicle or major replacement part has entered interstate commerce.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1083.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33108(a)	15:2026(a).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 606; added Oct. 25, 1984, Pub. L. 98–547, § 101(a), 98 Stat. 2760.
33108(b)	15:2026(b).	
33108(c)	15:2026(c).	
33108(d)	15:2026(d).	

In subsection (a), before clause (1), the words ''is complying'' are substituted for ''has acted or is acting in compliance'' and ''determining whether such manufacturer has acted or is acting in compliance'' to eliminate unnecessary words. The word ''reasonably'' is omitted as surplus. In clause (1), the word ''keep'' is substituted for ''establish and maintain'' for consistency in the revised title and to eliminate unnecessary words. In clause (4), the words ''upon request'', ''duly'', and ''such manufacturer shall make available all such items and information in accordance with such reasonable rules as the Secretary may prescribe'' are omitted as surplus.

In subsection (b), the words ''duly'' and ''enter and'' are omitted as surplus.

In subsection (c)(2)(B), the words ''or tagged'' and ''if any'' are omitted as surplus.

Subsection (d) is substituted for 15:2026(d) for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33102, 33114 of this title.

§ 33109. National Stolen Passenger Motor Vehicle Information System

(a) GENERAL REQUIREMENTS.—(1) Not later than July 25, 1993, the Attorney General shall establish, and thereafter maintain, a National Stolen Passenger Motor Vehicle Information System containing the vehicle identification numbers of stolen passenger motor vehicles and

stolen passenger motor vehicle parts. The System shall be located in the National Crime Information Center and shall include at least the following information on each passenger motor vehicle reported to a law enforcement authority as stolen and not recovered:

(A) the vehicle identification number.

(B) the make and model year.

(C) the date on which the vehicle was reported as stolen.

(D) the location of the law enforcement authority that received the report of the theft of the vehicle.

(E) the identification numbers of the vehicle parts (or derivatives of those numbers), at the time of the theft, if those numbers are different from the vehicle identification number of the vehicle.

(2) In establishing the System, the Attorney General shall consult with—

(A) State and local law enforcement authorities; and

(B) the National Crime Information Center Policy Advisory Board to ensure the security of the information in the System and that the System will not compromise the security of stolen passenger motor vehicle and passenger motor vehicle parts information in the System.

(3) If the Attorney General decides that the Center is not able to perform the functions of the System, the Attorney General shall make an agreement for the operation of the System separate from the Center.

(4) The Attorney General shall prescribe by regulation the effective date of the System.

(b) REQUESTS FOR INFORMATION.—(1) The Attorney General shall prescribe by regulation procedures under which an individual or entity intending to transfer a passenger motor vehicle or passenger motor vehicle part may obtain information on whether the vehicle or part is listed in the System as stolen.

(2) On request of an insurance carrier, a person lawfully selling or distributing passenger motor vehicle parts in interstate commerce, or an individual or enterprise engaged in the business of repairing passenger motor vehicles, the Attorney General (or the entity the Attorney General designates) immediately shall inform the insurance carrier, person, individual, or enterprise whether the System has a record of a vehicle or vehicle part with a particular vehicle identification number (or derivative of that number) being reported as stolen. The Attorney General may require appropriate verification to ensure that the request is legitimate and will not compromise the security of the System.

(c) ADVISORY COMMITTEE.—(1) Not later than December 24, 1992, the Attorney General shall establish in the Department of Justice an advisory committee. The Attorney General shall develop the System with the advice and recommendations of the committee.

(2)(A) The committee is composed of the following 10 members:

(i) the Attorney General.

(ii) the Secretary of Transportation.

(iii) one individual who is qualified to represent the interests of the law enforcement community at the State level.

(iv) one individual who is qualified to represent the interests of the law enforcement community at the local level.

(v) one individual who is qualified to represent the interests of the automotive recycling industry.

(vi) one individual who is qualified to represent the interests of the automotive repair industry.

(vii) one individual who is qualified to represent the interests of the automotive rebuilders industry.

(viii) one individual who is qualified to represent the interests of the automotive parts suppliers industry.

(ix) one individual who is qualified to represent the interests of the insurance industry.

(x) one individual who is qualified to represent the interests of consumers.

(B) The Attorney General shall appoint the individuals described in subparagraph (A)(iii)–(x) of this paragraph and shall serve as chairman of the committee.

(3) The committee shall make recommendations on developing and carrying out—

(A) the National Stolen Passenger Motor Vehicle Information System; and

(B) the verification system under section 33110 of this title.

(4) Not later than April 25, 1993, the committee shall submit to the Attorney General, the Secretary, and Congress a report including the recommendations of the committee.

(d) IMMUNITY.—Any person performing any activity under this section or section 33110 or 33111 in good faith and with the reasonable belief that such activity was in accordance with such section shall be immune from any civil action respecting such activity which is seeking money damages or equitable relief in any court of the United States or a State.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1084; Pub. L. 104–152, § 5, July 2, 1996, 110 Stat. 1385.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33109(a)	15:2026c(a), (b) (last sentence), (c), (f).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 609; added Oct. 25, 1992, Pub. L. 102–519, § 306(e), 106 Stat. 3398.
33109(b)	15:2026c(b) (1st sentence), (e).	
33109(c)	15:2026c(d).	

In the section, the words ''National Stolen Passenger Motor Vehicle Information System'' are substituted for ''National Stolen Auto Part Information System'' for consistency with the terminology used and with the source provisions restated in the revised chapter.

In subsection (a)(1), before clause (A), the words ''establish, and thereafter maintain'' are substituted for ''maintain'' for clarity. The words ''shall be located'' are added for clarity.

In subsection (a)(2)(B), the words ''stolen passenger motor vehicle and passenger motor vehicle parts information'' are substituted for ''stolen vehicle and vehicle parts information'' for consistency with the terminology used in the revised chapter.

In subsection (a)(4), the text of 15:2026c(f) (1st sentence) is omitted as surplus. The words ''the effective date of the System'' are substituted for ''shall be effective as provided'' because of the restatement.

In subsection (b)(1), the words ''intending to transfer'' are substituted for ''seeking to transfer'' for clarity. The words ''passenger motor vehicle or passenger motor vehicle part'' are substituted for ''a vehicle or vehicle parts'' for consistency with the terminology used in the revised chapter. The words ''whether the vehicle or part'' are substituted for ''whether a part'' for consistency with source provisions restated in the revised section.

In subsection (b)(2), the words ''shall inform the insurance carrier, person, individual, or enterprise whether'' are substituted for ''provide such insurance carrier or person with a determination as to whether'' for clarity and consistency in the revised subsection. The words ''may require appropriate verification'' are substituted for ''may require such verification as the Attorney General deems appropriate'' to eliminate unnecessary words.

In subsection (c)(1), the words ''and appoint'' are omitted as unnecessary because of the restatement.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–152 added subsec. (d).

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of 2-year period beginning on date of their establishment, 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 expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided for 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33110, 33111 of this title.

§ 33110. Verifications involving junk and salvage motor vehicles

(a) DEFINITION.—In this section, ''vehicle identification number'' means a unique identification number (or derivative of that number) assigned to a passenger motor vehicle by a manufacturer in compliance with applicable regulations.

(b) GENERAL REQUIREMENTS.—(1) If an insurance carrier selling comprehensive motor vehicle insurance coverage obtains possession of and transfers a junk motor vehicle or a salvage motor vehicle, the carrier shall—

(A) under procedures the Attorney General prescribes by regulation under section 33109 of this title in consultation with the Secretary of Transportation, verify whether the vehicle is reported as stolen; and

(B) provide the purchaser or transferee of the vehicle from the insurance carrier verification identifying the vehicle identification number and verifying that the vehicle has not been reported as stolen or, if reported as stolen, that the carrier has recovered the vehicle and has proper legal title to the vehicle.

(2)(A) This subsection does not prohibit an insurance carrier from transferring a motor vehicle if, within a reasonable period of time during normal business operations (as decided by the Attorney General under section 33109 of this title) using reasonable efforts, the carrier—

(i) has not been informed under the procedures prescribed in section 33109 of this title that the vehicle has not been reported as stolen; or

(ii) has not otherwise established whether the vehicle has been reported as stolen.

(B) When a carrier transfers a motor vehicle for which the carrier has not established whether the vehicle has been reported as stolen, the carrier shall provide written certification to the transferee that the carrier has not established whether the vehicle has been reported as stolen.

(c) REGULATIONS.—In consultation with the Secretary, the Attorney General shall prescribe regulations necessary to ensure that verification performed and provided by an insurance carrier under subsection (b)(1)(B) of this section is uniform, effective, and resistant to fraudulent use.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1086.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33110(a)	15:2026a(a) (2d sentence).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 607; added Oct. 25, 1992, Pub. L. 102–519, § 306(a), 106 Stat. 3397.
33110(b)	15:2026a(a) (1st, last sentences).	
33110(c)	15:2026a(b).	

In subsection (b)(1)(B), the words ''or derivative thereof'' are omitted as unnecessary because of the definition of ''vehicle identification number'' in subsection (a) of the revised section.

In subsection (b)(2)(A)(i), the words ''has not been informed under the procedures prescribed'' are substituted for ''has not received a determination under'' for clarity and consistency in the revised chapter. In clause (ii), the words ''has not otherwise established whether'' are substituted for ''to otherwise determine whether'' for clarity.

In subsection (b)(2)(B), the words ''When a carrier transfers a motor vehicle for which the carrier has not established whether the vehicle has been reported as stolen, the carrier shall provide written certification to the transferee that the carrier has not established whether the vehicle has been reported as stolen'' are substituted for ''except that such carrier shall provide a written certification of such lack of determination'' for clarity and because of the restatement.

EFFECTIVE DATE

Section 4(u) of Pub. L. 103–272 provided that: ''Not later than April 25, 1993, the Attorney General shall prescribe the regulations required under section 33110(c) of title 49, United States Code, as enacted by section 1 of this Act. Section 33110(b) of title 49 is effective not later than 3 months after those regulations are prescribed but not before the date on which the National Stolen Passenger Motor Vehicle Information System established under section 33109 of title 49 is operational.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30504, 33109, 33111 of this title.

§ 33111. Verifications involving motor vehicle major parts

(a) GENERAL REQUIREMENTS.—A person engaged in the business of salvaging, dismantling, recycling, or repairing passenger motor vehicles may not knowingly sell in commerce or transfer or install a major part marked with an identification number without—

(1) first establishing, through a procedure the Attorney General by regulation prescribes in consultation with the Secretary of Transportation under section 33109 of this title, that the major part has not been reported as stolen; and

(2) providing the purchaser or transferee with a verification—

(A) identifying the vehicle identification number (or derivative of that number) of that major part; and

(B) verifying that the major part has not been reported as stolen.

(b) NONAPPLICATION.—(1) Subsection (a) of this section does not apply to a person that—

(A) is the manufacturer of the major part;

(B) has purchased the major part directly from the manufacturer; or

(C) has received a verification from an insurance carrier under section 33110 of this title that the motor vehicle from which the major part is derived has not been reported as stolen, or that the carrier has not established whether that vehicle has been stolen.

(2) A person described under paragraph (1)(C) of this subsection that subsequently transfers or sells in commerce the motor vehicle or a major part of the vehicle shall provide the verification received from the carrier to the person to whom the vehicle or part is transferred or sold.

(c) REGULATIONS.—The Attorney General shall prescribe regulations to carry out this section. The regulations shall include regulations prescribed in consultation with the Secretary that are necessary to ensure that a verification a person provides under subsection (a)(2) of this section is uniform, effective, and resistant to fraudulent use.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1086.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33111(a)	15:2026b(a).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §608; added Oct. 25, 1992, Pub. L. 102–519, §306(c), 106 Stat. 3397.
33111(b)	15:2026b(c) (1st, 2d sentences).	
33111(c)	15:2026b(b), (c) (last sentence).	

In subsection (a), before clause (1), the word ''distribute'' is omitted as being included in ''sell''. In clause (1), the word ''establishing'' is substituted for ''determining'' for clarity and consistency in the revised title.

Subsection (b)(2) is substituted for 15:2026b(c) (2d sentence) for clarity.

EFFECTIVE DATE

Section 4(v) of Pub. L. 103–272 provided that: ''Section 33111 of title 49, United States Code, as enacted by section 1 of this Act, is effective on the date on which the National Stolen Passenger Motor Vehicle Information System is established under section 33109 of title 49.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33109 of this title.

§ 33112. Insurance reports and information

(a) PURPOSES.—The purposes of this section are—

(1) to prevent or discourage the theft of motor vehicles, particularly those stolen for the removal of certain parts;

(2) to prevent or discourage the sale and distribution in interstate commerce of used parts that are removed from those vehicles; and

(3) to help reduce the cost to consumers of comprehensive insurance coverage for motor vehicles.

(b) DEFINITIONS.—In this section—

(1) ''insurer'' includes a person (except a governmental authority) having a fleet of at least 20 motor vehicles that are used primarily for rental or lease and are not covered by a theft insurance policy issued by an insurer of passenger motor vehicles.

(2) ''motor vehicle'' includes a truck, a multipurpose passenger vehicle, and a motorcycle.

(c) ANNUAL INFORMATION REQUIREMENT.—(1) An insurer providing comprehensive coverage for motor vehicles shall provide annually to the Secretary of Transportation information on—

(A) the thefts and recoveries (in any part) of motor vehicles;

(B) the number of vehicles that have been recovered intact;

(C) the rating rules and plans, such as loss information and rating characteristics, used by the insurer to establish premiums for comprehensive coverage, including the basis for the premiums, and premium penalties for motor vehicles considered by the insurer as more likely to be stolen;

(D) the actions taken by the insurer to reduce the premiums, including changing rate levels for comprehensive coverage because of a reduction in thefts of motor vehicles;

(E) the actions taken by the insurer to assist in deterring or reducing thefts of motor vehicles; and

(F) other information the Secretary requires to carry out this chapter and to make the report and findings required by this chapter.

(2) The information on thefts and recoveries shall include an explanation on how the information is obtained, the accuracy and timeliness of the information, and the use made of the information, including the extent and frequency of reporting the information to national, public, and private entities such as the Federal Bureau of Investigation and State and local police.

(d) REPORTS ON REDUCED CLAIMS PAYMENTS.—An insurer shall report promptly in writing to the Secretary if the insurer, in paying a claim under an adjustment or negotiation between the insurer and the insured for a stolen motor vehicle—

(1) reduces the payment to the insured by the amount of the value, salvage or otherwise, of a recovered part subject to a standard prescribed under section 33102 or 33103 of this title; and

(2) the reduction is not made at the express election of the insured.

(e) GENERAL EXEMPTIONS.—The Secretary shall exempt from this section, for one or more years, an insurer that the Secretary decides should be exempted because—

(1) the cost of preparing and providing the information is excessive in relation to the size of the insurer's business; and

(2) the information from that insurer will not contribute significantly to carrying out this chapter.

(f) SMALL INSURER EXEMPTIONS.—(1) In this subsection, ''small insurer'' means an insurer whose premiums for motor vehicle insurance issued directly or through an affiliate, including a pooling arrangement established under State law or regulation for the issuance of motor vehicle insurance, account for—

(A) less than one percent of the total premiums for all forms of motor vehicle insurance issued by insurers in the United States; and

(B) less than 10 percent of the total premiums for all forms of motor vehicle insurance issued by insurers in any State.

(2) The Secretary shall exempt by regulation a small insurer from this section if the Secretary finds that the exemption will not significantly affect the validity or usefulness of the information collected and compiled under this section, nationally or State-by-State. However, the Secretary may not exempt an insurer under this paragraph that is considered an insurer only because of subsection (b)(1) of this section.

(3) Regulations under this subsection shall provide that eligibility as a small insurer shall be based on the most recent calendar year for which adequate information is available, and that, once attained, the eligibility shall continue without further demonstration of eligibility for one or more years, as the Secretary considers appropriate.

(g) PRESCRIBED FORM.—Information required by this section shall be provided in the form the Secretary prescribes.

(h) PERIODIC COMPILATIONS.—Subject to section 552 of title 5, the Secretary periodically shall compile and publish information obtained by the Secretary under this section, in a form that will be helpful to the public, the police, and Congress.

(i) CONSULTATION.—In carrying out this section, the Secretary shall consult with public and private agencies and associations the Secretary considers appropriate.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1087.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33112(a)	15:2032(a)(1) (1st sentence words before 4th comma).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §615; added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2763; Oct. 25, 1992, Pub. L. 102–519, §306(a), 106 Stat. 3397.
33112(b)(1) ..	15:2032(a)(3).	
33112(b)(2) ..	15:2032(f).	
33112(c)	15:2032(a)(1) (1st sentence words after 4th comma, last sentence), (2).	
33112(d)	15:2032(d).	
33112(e)	15:2032(a)(4).	
33112(f)	15:2032(a)(5).	
33112(g)	15:2032(e).	
33112(h)	15:2032(b).	
33112(i)	15:2032(c).	

In subsection (b)(1), the word ''authority'' is substituted for ''entity'' for clarity and consistency in the revised title.

In subsection (c)(1), before clause (A), the words ''(or their designated agents)'' are omitted as surplus. The words ''beginning 2 years after October 25, 1984'' are omitted as executed.

In subsection (c)(2), the words ''by the insurer'' are omitted as surplus.

Subsection (f)(1)(B) is substituted for 15:2032(a)(5)(C)(ii) for clarity and to eliminate unnecessary words.

In subsection (f)(2), the words ''the requirements of'' are omitted as surplus.

In subsection (g), the words ''by regulation or otherwise'' are omitted as surplus.

In subsection (h), the words ''the police'' are substituted for ''including Federal, State, and local police'' to eliminate unnecessary words.

In subsection (i), the words ''In carrying out this section'' are added for clarity. The words ''public and private agencies and associations'' are substituted for ''such State and insurance regulatory agencies and other agencies and associations, both public and private'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33102, 33103 of this title.

§ 33113. Theft reports

(a) TRUCK, MULTIPURPOSE PASSENGER VEHICLE, AND MOTORCYCLE REPORT.—Not later than October 25, 1995, the Secretary of Transportation shall submit a report to Congress that includes—

(1) information on the number of trucks, multipurpose passenger vehicles, and motorcycles distributed for sale in interstate commerce that are stolen and recovered annually, compiled by model, make, and line;

(2) information on the extent to which trucks, multipurpose passenger vehicles, and motorcycles stolen annually are dismantled to recover parts or are exported;

(3) a description of the market for the stolen parts;

(4) information on the premiums charged by insurers of comprehensive coverage of trucks, multipurpose passenger vehicles, or motorcycles, including any increase in the premiums charged because any of those motor vehicles is a likely candidate for theft;

(5) an assessment of whether the identification of parts of trucks, multipurpose passenger vehicles, and motorcycles is likely—

(A) to decrease the theft rate of those motor vehicles;

(B) to increase the recovery rate of those motor vehicles;

(C) to decrease the trafficking in stolen parts of those motor vehicles;

(D) to stem the export and import of those stolen motor vehicles or parts; or

(E) to have benefits greater than the costs of the identification; and

(6) recommendations on whether, and to what extent, the identification of trucks, multipurpose passenger vehicles, and motorcycles should be required by law.

(b) MOTOR VEHICLE REPORT.—Not later than October 25, 1997, the Secretary shall submit a report to Congress that includes—

(1) information on—
(A) the methods and procedures used by public and private entities to collect, compile, and disseminate information on the theft and recovery of motor vehicles, including classes of motor vehicles; and
(B) the reliability and timeliness of the information and how the information can be improved;

(2) information on the number of motor vehicles distributed for sale in interstate commerce that are stolen and recovered annually, compiled by class, model, make, and line;
(3) information on the extent to which motor vehicles stolen annually are dismantled to recover parts or are exported;
(4) a description of the market for the stolen parts;
(5) information on—
(A) the costs to manufacturers and purchasers of passenger motor vehicles of compliance with the standards prescribed under this chapter;
(B) the beneficial impacts of the standards and the monetary value of the impacts; and
(C) the extent to which the monetary value is greater than the costs;

(6) information on the experience of officials of the United States Government, States, and localities in—
(A) making arrests and successfully prosecuting persons for violating a law set forth in title II or III of the Motor Vehicle Theft Law Enforcement Act of 1984;
(B) preventing or reducing the number and rate of thefts of motor vehicles that are dismantled for parts subject to this chapter; and
(C) preventing or reducing the availability of used parts that are stolen from motor vehicles subject to this chapter;

(7) information on the premiums charged by insurers of comprehensive coverage of motor vehicles subject to this chapter, including any increase in the premiums charged because a motor vehicle is a likely candidate for theft, and the extent to which the insurers have reduced for the benefit of consumers the premiums, or foregone premium increases, because of this chapter;
(8) information on the adequacy and effectiveness of laws of the United States and the States aimed at preventing the distribution and sale of used parts that have been removed from stolen motor vehicles and the adequacy of systems available to enforcement personnel for tracing parts to determine if they have been stolen from a motor vehicle;
(9) an assessment of whether the identification of parts of other classes of motor vehicles is likely—
(A) to decrease the theft rate of those vehicles;
(B) to increase the recovery rate of those vehicles;
(C) to decrease the trafficking in stolen parts of those vehicles;
(D) to stem the export and import of those stolen vehicles, parts, or components; or
(E) to have benefits greater than the costs of the identification; and

(10) other relevant and reliable information available to the Secretary about the impact, including the beneficial impact, of the laws set forth in titles II and III of the Motor Vehicle Theft Law Enforcement Act of 1984 on law enforcement, consumers, and manufacturers; and
(11) recommendations (including, as appropriate, legislative and administrative recommendations) for—
(A) continuing without change the standards prescribed under this chapter;
(B) amending this chapter to cover more or fewer lines of passenger motor vehicles;
(C) amending this chapter to cover other classes of motor vehicles; or
(D) ending the standards for all future motor vehicles.

(c) BASES OF REPORTS.—(1) The reports under subsections (a) and (b) of this section each shall be based on—
(A) information reported under this chapter by insurers of motor vehicles and manufacturers of motor vehicles and major replacement parts;
(B) information provided by the Federal Bureau of Investigation;
(C) experience obtained in carrying out this chapter;
(D) experience of the Government under the laws set forth in titles II and III of the Motor Vehicle Theft Law Enforcement Act of 1984; and
(E) other relevant and reliable information available to the Secretary.

(2) In preparing each report, the Secretary shall consult with the Attorney General and State and local law enforcement officials, as appropriate.
(3) The report under subsection (b) of this section shall—
(A) cover a period of at least 4 years after the standards required by this chapter are prescribed; and
(B) reflect any information, as appropriate, from the report under subsection (a) of this section, updated from the date of the report.

(4) At least 90 days before submitting each report to Congress, the Secretary shall publish a proposed report for public review and an opportunity of at least 45 days for written comment. The Secretary shall consider those comments in preparing the report to be submitted and include a summary of the comments with the submitted report.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1089.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33113	15:2034.	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §617; added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2765; Oct. 25, 1992, Pub. L. 102–519, §306(a), (e), 106 Stat. 3397, 3400.

In this section, the word ''information'' is substituted for ''data'' for consistency in the revised title. The word ''standards'' is substituted for ''standard'' because there is more than one standard prescribed under this chapter.

In subsection (a), before clause (1), the words ''October 25, 1995'' are substituted for ''3 years after October 25, 1992'' (the date of enactment of the Anti-Car Theft Act of 1992) for clarity and to eliminate unnecessary words. In clause (1), the words ''distributed for sale in interstate commerce that are'' are substituted for ''for all such motor vehicles distributed for sale in interstate commerce'' for clarity. In clause (5)(A), the word ''decrease'' is substituted for ''have . . . a beneficial impact in decreasing'' for consistency and to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''October 25, 1997'' are substituted for ''5 years after October 25, 1992'' (the date of enactment of the Anti-Car Theft Act of 1992) for clarity and to eliminate unnecessary words. In clause (1)(B), the word ''accuracy'' is omitted as redundant. In clause (2), the words ''distributed for sale in interstate commerce that are'' are substituted for ''for all such motor vehicles distributed for sale in interstate commerce'' for clarity. In clause (9)(A), the word ''decrease'' is substituted for ''have . . . a beneficial impact in decreasing'' for consistency and to eliminate unnecessary words.

In subsection (c)(1)(C), the words ''carrying out'' are substituted for ''the implementation, administration, and enforcement'' for consistency and to eliminate unnecessary words.

REFERENCES IN TEXT

The Motor Vehicle Theft Law Enforcement Act of 1984, referred to in subsecs. (b)(6)(A), (10) and (c)(1)(D), is Pub. L. 98–547, Oct. 25, 1984, 98 Stat. 2754. Titles II and III of that act enacted sections 511, 512, 553, and 2320 [now 2321] of Title 18, Crimes and Criminal Procedure, and section 1627 of Title 19, Customs Duties, and amended sections 1961, 2311, and 2313 of Title 18. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 1901 of Title 15, Commerce and Trade, and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33103 of this title.

§ 33114. Prohibited acts

(a) GENERAL.—A person may not—

(1) manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, a motor vehicle or major replacement part subject to a standard prescribed under section 33102 or 33103 of this title, unless it conforms to the standard;

(2) fail to comply with a regulation prescribed by the Secretary of Transportation or Attorney General under this chapter;

(3) fail to keep specified records, refuse access to or copying of records, fail to make reports or provide items or information, or fail or refuse to allow entry or inspection, as required by this chapter;

(4) fail to provide the certification required by section 33108(c) of this title, or provide a certification that the person knows, or in the exercise of reasonable care has reason to know, is false or misleading in a material respect; or

(5) knowingly—

(A) own, operate, maintain, or control a chop shop;

(B) conduct operations in a chop shop; or

(C) transport a passenger motor vehicle or passenger motor vehicle part to or from a chop shop.

(b) NONAPPLICATION.—Subsection (a)(1) of this section does not apply to a person establishing that in the exercise of reasonable care the person did not have reason to know that the motor vehicle or major replacement part was not in conformity with the standard.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1091.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33114	15:2027(a), (b).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 610(a), (b); added Oct. 25, 1984, Pub. L. 98–547, § 101(a), 98 Stat. 2761; Oct. 25, 1992, Pub. L. 102–519, §§ 305(a), 306(a), 106 Stat. 3396, 3397.
	15:2027(c)(1).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 610(c)(1); added Oct. 25, 1992, Pub. L. 102–519, §§ 305(b), 306(a), 106 Stat. 3396, 3397.

In subsection (a)(1), the words ''which is manufactured on or after the date the standard under section 2022 of this title takes effect under this subchapter for such vehicle or major replacement part'' are omitted as obsolete because the standard applies to passenger motor vehicles and major replacement parts starting with the 1987 model year. See 50 Fed. Reg. 43166 (1985).

In subsection (a)(5)(A), the words ''of any kind'' are omitted as unnecessary because of the definition of ''chop shop'' in section 33101 of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33115 of this title.

§ 33115. Civil penalties and enforcement

(a) GENERAL PENALTY AND CIVIL ACTIONS TO COLLECT.—(1) A person that violates section 33114(a)(1)–(4) of this title is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. The failure of more than one part of a single motor vehicle to conform to an applicable standard under section 33102 or 33103 of this title is only a single violation. The maximum penalty under this subsection for a related series of violations is $250,000.

(2) The Secretary of Transportation imposes a civil penalty under this subsection. The Secretary may compromise the amount of a penalty.

(3) In determining the amount of a civil penalty or compromise under this subsection, the Secretary shall consider the size of the person's business and the gravity of the violation.

(4) The Attorney General shall bring a civil action in a United States district court to collect a civil penalty imposed under this subsection.

(5) 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.

(b) CHOP SHOP PENALTY AND ENFORCEMENT.—(1) A person that violates section 33114(a)(5) of this title is liable to the Government for a civil penalty of not more than $100,000 a day for each violation.

(2) As appropriate and in consultation with the Attorney General, the Secretary shall—

(A) bring a civil action for a temporary or permanent injunction to restrain a person violating section 33114(a)(5) of this section;

(B) impose and recover the penalty described in paragraph (1) of this subsection; or

(C) take both the actions described in clauses (A) and (B) of this paragraph.

(c) CIVIL ACTIONS TO ENFORCE.—(1) The Attorney General may bring a civil action in a United States district court to enjoin a violation of this chapter or the sale, offer for sale, introduction or delivery for introduction in interstate commerce, or importation into the United States, of a passenger motor vehicle containing a major part, or of a major replacement part, that is subject to the standard and is determined before the sale of the vehicle or part to a first purchaser not to conform to the standard.

(2)(A) When practicable, the Secretary—

(i) shall notify a person against whom an action under this subsection is planned;

(ii) shall give the person an opportunity to present that person's views; and

(iii) except for a knowing and willful violation, shall give the person a reasonable opportunity to comply.

(B) The failure of the Secretary to comply with subparagraph (A) of this paragraph does not prevent a court from granting appropriate relief.

(d) JURY TRIAL DEMAND.—In a trial for criminal contempt for violating an injunction or restraining order issued under subsection (c) of this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(e) VENUE.—A civil action under subsection (a) or (c) of this section may be brought in the judicial district in which the violation occurred or the defendant resides, is found, or transacts business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1091.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33115(a)	15:2028(a).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §611; added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2762; Oct. 25, 1992, Pub. L. 102–519, §306(a), 106 Stat. 3397.
33115(b)	15:2027(c)(2).	Oct. 20, 1972, Pub. L. 92–513, §86 Stat. 947, §610(c)(2); added Oct. 25, 1992, Pub. L. 102–519, §§305(b), 306(a), 106 Stat. 3396, 3397.
33115(c)(1) ..	15:2028(b)(1) (1st sentence).	
33115(c)(2) ..	15:2028(b)(1) (2d, last sentences).	
33115(d)	15:2028(b)(2).	
33115(e)	15:2028(b)(3), (4).	

In subsection (a)(1), the words ''section 33114(a)(1)–(4)'' are used to correct an erroneous cross-reference in section 611(a)(1) of the Motor Vehicle Information and Cost Savings Act (Public Law 92–513, 86 Stat. 947) to section 607 of that Act. Sections 607 and 611 were redesignated by section 306(a) of the Anti Car Theft Act of 1992 (Public Law 102–519, 106 Stat. 3397). The words ''is liable to the United States Government for a civil penalty'' are substituted for ''may be assessed a civil penalty'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2), the word ''imposes'' is substituted for ''assessed'' for consistency.

In subsection (a)(3), the words ''the appropriateness of such penalty to'' are omitted as surplus.

In subsection (a)(5), the words ''United States district court'' are added for clarity and consistency in the revised title.

In subsection (c)(1), the words ''The Attorney General may bring a civil action'' are substituted for ''Upon petition by the Attorney General'' for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''on behalf of the United States'' are omitted as surplus. The words ''shall have jurisdiction'' are omitted because of 28:1331. The words ''for cause shown and subject to the provisions of rule 65(a) and (b) of the Federal Rules of Civil Procedure'' are omitted as surplus because the rules apply in the absence of an exception from them. The word ''enjoin'' is substituted for ''restrain'' for consistency in the revised title.

In subsection (d), the words ''the defendant may demand a jury trial'' are substituted for ''trial shall be by the court, or, upon demand of the accused, by a jury'' to eliminate unnecessary words and for consistency in the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33103 of this title.

§ 33116. Confidentiality of information

(a) GENERAL.—Information obtained by the Secretary of Transportation under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only—

(1) to another officer or employee of the United States Government for use in carrying out this chapter; or

(2) in a proceeding under this chapter (except a proceeding under section 33104(a)(3)).

(b) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1093.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33116	15:2029.	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §612; added Oct. 25, 1984, Pub. L. 98–547, §101(a), 98 Stat. 2763; Oct. 25, 1992, Pub. L. 102–519, §306(a), 106 Stat. 3397.

In subsection (a), before clause (1), the words ''reported to, or otherwise'' and ''or the Secretary's representative'' are omitted as surplus. The words ''related to a confidential matter referred to'' are substituted for ''contains or relates to a trade secret or other matter referred to'' to eliminate unnecessary words and for consistency in the revised title. The words ''or in section 552(b)(4) of title 5'' are omitted as surplus because the language in 18:1905 is broader than the language in 5:552(b)(4) and for consistency with similar provisions in other chapters in this part. The words ''shall be considered confidential for the purpose of the applicable section of this subchapter'' are omitted as surplus. In clause (1), the words ''for use in carrying out'' are substituted for ''concerned with carrying out'' for consistency with similar provisions in other chapters in this

part. In clause (2), the words ''when relevant'' are omitted as surplus. The cross-reference to 15:2023(a)(3) is omitted. The text of 15:2023(a)(3), originally enacted as section 603(a)(3) of the Motor Vehicle Information and Cost Savings Act (Public Law 92–513, 86 Stat. 947), was repealed by section 303(2) of the Anti Car Theft Act of 1992 (Public Law 102–519, 106 Stat. 3396). Section 303(2) also redesignated subsection (a)(4) as subsection (a)(3). However, a corresponding amendment to correct the cross-reference in the source provisions restated in this section was not made.

In subsection (b), the words ''authorized to have the information'' are added for clarity and consistency with similar provisions in other chapters in this part.

§ 33117. Judicial review

A person that may be adversely affected by a regulation prescribed under this chapter may obtain judicial review of the regulation under section 32909 of this title. A remedy under this section is in addition to any other remedies provided by law.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1093.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33117	15:2030.	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 613; added Oct. 25, 1984, Pub. L. 98–547, § 101(a), 98 Stat. 2763; Oct. 25, 1992, Pub. L. 102–519, § 306(a), 106 Stat. 3397.

The words ''regulation prescribed'' are substituted for ''any provision of any standard or other rule'' to eliminate unnecessary words and because ''rule'' and ''regulation'' are synonymous. The words ''in the case of any standard, rule, or other action under this subchapter'' are omitted as surplus.

§ 33118. Preemption of State and local law

When a motor vehicle theft prevention standard prescribed under section 33102 or 33103 of this title is in effect, a State or political subdivision of a State may not have a different motor vehicle theft prevention standard for a motor vehicle or major replacement part.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1093.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
33118	15:2031.	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, § 614; added Oct. 25, 1984, Pub. L. 98–547, § 101(a), 98 Stat. 2763; Oct. 25, 1992, Pub. L. 102–519, § 306(a), 106 Stat. 3397.

The words ''may not have'' are substituted for ''no . . . shall have any authority either to establish, or to continue in effect'' to eliminate unnecessary words.

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AMENDMENTS

1997—Pub. L. 105–102, § 2(20), Nov. 20, 1997, 111 Stat. 2205, substituted ''PUBLIC AIRPORTS'' for ''RESERVED'' in item for part D and added item for chapter 491.

1996—Pub. L. 104–287, § 5(64), Oct. 11, 1996, 110 Stat. 3395, substituted ''RESERVED'' for ''MISCELLANEOUS'' in item for part D, struck out item for chapter 491 ''Buy-American Preferences'', and added items for part E and chapter 501.

Pub. L. 104–264, title II, § 277(b), Oct. 9, 1996, 110 Stat. 3248, added item for chapter 482.

PART A—AIR COMMERCE AND SAFETY

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 329, 13102, 13531 of this title; title 14 section 82; title 15 sections 21, 45, 1607, 1681s, 1691c, 1692*l*, 1693*o*; title 26 section 9502; title 39 sections 5401, 5402; title 40 App. section 208; title 42 sections 6362, 7572.

SUBPART I—GENERAL

CHAPTER 401—GENERAL PROVISIONS

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AMENDMENTS

1997—Pub. L. 105–102, §3(d)(1)(B), Nov. 20, 1997, 111 Stat. 2215, amended Pub. L. 104–287, §5(69)(B). See 1996 Amendment note below.

1996—Pub. L. 104–287, §5(69)(B), Oct. 11, 1996, 110 Stat. 3396, as amended by Pub. L. 105–102, §3(d)(1)(B), Nov. 20, 1997, 111 Stat. 2215, added item 40124.

Pub. L. 104–264, title II, §254, title IV, §§401(b)(2), 402(b), Oct. 9, 1996, 110 Stat. 3238, 3255, 3256, inserted ''safety of'' before ''air commerce'' in item 40104 and added item 40121 ''Air traffic control modernization reviews'' and items 40122 and 40123.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 46301, 46316 of this title.

§ 40101. Policy

(a) ECONOMIC REGULATION.—In carrying out subpart II of this part and those provisions of subpart IV applicable in carrying out subpart II, the Secretary of Transportation shall consider the following matters, among others, as being in the public interest and consistent with public convenience and necessity:

(1) assigning and maintaining safety as the highest priority in air commerce.

(2) before authorizing new air transportation services, evaluating the safety implications of those services.

(3) preventing deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of Congress to further the highest degree of safety in air transportation and air commerce, and to maintain the safety vigilance that has evolved in air transportation and air commerce and has come to be expected by the traveling and shipping public.

(4) the availability of a variety of adequate, economic, efficient, and low-priced services without unreasonable discrimination or unfair or deceptive practices.

(5) coordinating transportation by, and improving relations among, air carriers, and encouraging fair wages and working conditions.

(6) placing maximum reliance on competitive market forces and on actual and potential competition—

(A) to provide the needed air transportation system; and

(B) to encourage efficient and well-managed air carriers to earn adequate profits and attract capital, considering any material differences between interstate air transportation and foreign air transportation.

(7) developing and maintaining a sound regulatory system that is responsive to the needs of the public and in which decisions are reached promptly to make it easier to adapt the air transportation system to the present and future needs of—

(A) the commerce of the United States;

(B) the United States Postal Service; and

(C) the national defense.

(8) encouraging air transportation at major urban areas through secondary or satellite airports if consistent with regional airport plans of regional and local authorities, and if endorsed by appropriate State authorities—

(A) encouraging the transportation by air carriers that provide, in a specific market, transportation exclusively at those airports; and

(B) fostering an environment that allows those carriers to establish themselves and develop secondary or satellite airport services.

(9) preventing unfair, deceptive, predatory, or anticompetitive practices in air transportation.

(10) avoiding unreasonable industry concentration, excessive market domination, monopoly powers, and other conditions that would tend to allow at least one air carrier or foreign air carrier unreasonably to increase prices, reduce services, or exclude competition in air transportation.

(11) maintaining a complete and convenient system of continuous scheduled interstate air transportation for small communities and isolated areas with direct financial assistance from the United States Government when appropriate.

(12) encouraging, developing, and maintaining an air transportation system relying on actual and potential competition—

(A) to provide efficiency, innovation, and low prices; and

(B) to decide on the variety and quality of, and determine prices for, air transportation services.

(13) encouraging entry into air transportation markets by new and existing air carriers and the continued strengthening of small air carriers to ensure a more effective and competitive airline industry.

(14) promoting, encouraging, and developing civil aeronautics and a viable, privately-owned United States air transport industry.

(15) strengthening the competitive position of air carriers to at least ensure equality with foreign air carriers, including the attainment of the opportunity for air carriers to maintain and increase their profitability in foreign air transportation.

(b) ALL-CARGO AIR TRANSPORTATION CONSIDERATIONS.—In carrying out subpart II of this part

and those provisions of subpart IV applicable in carrying out subpart II, the Secretary of Transportation shall consider the following matters, among others and in addition to the matters referred to in subsection (a) of this section, as being in the public interest for all-cargo air transportation:

(1) encouraging and developing an expedited all-cargo air transportation system provided by private enterprise and responsive to—

(A) the present and future needs of shippers;

(B) the commerce of the United States; and

(C) the national defense.

(2) encouraging and developing an integrated transportation system relying on competitive market forces to decide the extent, variety, quality, and price of services provided.

(3) providing services without unreasonable discrimination, unfair or deceptive practices, or predatory pricing.

(c) GENERAL SAFETY CONSIDERATIONS.—In carrying out subpart III of this part and those provisions of subpart IV applicable in carrying out subpart III, the Administrator of the Federal Aviation Administration shall consider the following matters:

(1) the requirements of national defense and commercial and general aviation.

(2) the public right of freedom of transit through the navigable airspace.

(d) SAFETY CONSIDERATIONS IN PUBLIC INTEREST.—In carrying out subpart III of this part and those provisions of subpart IV applicable in carrying out subpart III, the Administrator shall consider the following matters, among others, as being in the public interest:

(1) assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce.

(2) regulating air commerce in a way that best promotes safety and fulfills national defense requirements.

(3) encouraging and developing civil aeronautics, including new aviation technology.

(4) controlling the use of the navigable airspace and regulating civil and military operations in that airspace in the interest of the safety and efficiency of both of those operations.

(5) consolidating research and development for air navigation facilities and the installation and operation of those facilities.

(6) developing and operating a common system of air traffic control and navigation for military and civil aircraft.

(7) providing assistance to law enforcement agencies in the enforcement of laws related to regulation of controlled substances, to the extent consistent with aviation safety.

(e) INTERNATIONAL AIR TRANSPORTATION.—In formulating United States international air transportation policy, the Secretaries of State and Transportation shall develop a negotiating policy emphasizing the greatest degree of competition compatible with a well-functioning international air transportation system, including the following:

(1) strengthening the competitive position of air carriers to ensure at least equality with foreign air carriers, including the attainment of the opportunity for air carriers to maintain and increase their profitability in foreign air transportation.

(2) freedom of air carriers and foreign air carriers to offer prices that correspond to consumer demand.

(3) the fewest possible restrictions on charter air transportation.

(4) the maximum degree of multiple and permissive international authority for air carriers so that they will be able to respond quickly to a shift in market demand.

(5) eliminating operational and marketing restrictions to the greatest extent possible.

(6) integrating domestic and international air transportation.

(7) increasing the number of nonstop United States gateway cities.

(8) opportunities for carriers of foreign countries to increase their access to places in the United States if exchanged for benefits of similar magnitude for air carriers or the traveling public with permanent linkage between rights granted and rights given away.

(9) eliminating discrimination and unfair competitive practices faced by United States airlines in foreign air transportation, including—

(A) excessive landing and user fees;

(B) unreasonable ground handling requirements;

(C) unreasonable restrictions on operations;

(D) prohibitions against change of gauge; and

(E) similar restrictive practices.

(10) promoting, encouraging, and developing civil aeronautics and a viable, privately-owned United States air transport industry.

(f) STRENGTHENING COMPETITION.—In selecting an air carrier to provide foreign air transportation from among competing applicants, the Secretary of Transportation shall consider, in addition to the matters specified in subsections (a) and (b) of this section, the strengthening of competition among air carriers operating in the United States to prevent unreasonable concentration in the air carrier industry.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1094; Pub. L. 104–264, title IV, § 401(a), Oct. 9, 1996, 110 Stat. 3255.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40101(a)	49 App.:1302(a).	Aug. 23, 1958, Pub. L. 85–726, § 102(a), 72 Stat. 740; Nov. 9, 1977, Pub. L. 95–163, § 16(b)(1), (2), 91 Stat. 1284; Oct. 24, 1978, Pub. L. 95–504, § 3(a), 92 Stat. 1705; restated Feb. 15, 1980, Pub. L. 96–192, § 2, 94 Stat. 35.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
40101(b)	49 App.:1302(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 102(b); added Nov. 9, 1977, Pub. L. 95–163, § 16(b)(3), 91 Stat. 1284.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40101(c)	49 App.:1551(b)(1)(E). 49 App.:1347.	Aug. 23, 1958, Pub. L. 85–726, §306, 72 Stat. 749.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
40101(d)	49 App.:1303.	Aug. 23, 1958, Pub. L. 85–726, §103, 72 Stat. 740; Nov. 18, 1988, Pub. L. 100–690, §7202(b), 102 Stat. 4424.
	49 App.:1655(c)(1).	
40101(e)	49 App.:1502(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1102(b); added Feb. 15, 1980, Pub. L. 96–192, §17, 94 Stat. 42.
	49 App.:1551(b)(1)(E).	
40101(f)	49 App.:1302(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §102(c); added Oct. 31, 1992, Pub. L. 102–581, §205, 106 Stat. 4894.

In this part, the words ''overseas air commerce'' and ''overseas air transportation'' are omitted as obsolete because there no longer is a distinction in economic or safety regulation between ''interstate'' and ''overseas'' air commerce or air transportation.

In this section, the words ''In carrying out . . . this part'' are substituted for ''In the exercise and performance of its powers and duties under this chapter'' in 49 App.:1302(a), ''In the exercise and performance of his powers and duties under this chapter'' in 49 App.:1303, and ''In exercising the authority granted in, and discharging the duties imposed by, this chapter'' in 49 App.:1347 for consistency in the revised title and to eliminate unnecessary words.

In subsections (a) and (b), the reference to subpart II is added because the policy applies only to economic issues, and under the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), the Civil Aeronautics Board was given responsibility for economic issues.

In subsection (a)(2), the word ''full'' is omitted as surplus. The words ''the recommendations of the Secretary of Transportation on'' are omitted as obsolete because the Secretary carries out 49 App.:1302(a). The words ''and full evaluation of any report or recommendation submitted under section 1307 of this Appendix'' are omitted as obsolete because the report and recommendations are no longer required.

In subsection (a)(4), the words ''by air carriers and foreign air carriers'' are omitted as surplus. The words ''unreasonable discrimination'' are substituted for ''unjust discriminations, undue preferences or advantages'' for consistency in the revised title and to eliminate unnecessary words.

In subsection (a)(6)(B), the words ''nevertheless'', ''on the one hand'', and ''on the other'' are omitted as surplus.

In subsection (a)(8), before subclause (A), the word ''authorities'' is substituted for ''entities'' for consistency in the revised title and with other titles of the Code. In subclause (A), the words ''sole responsibility'' are omitted as unnecessary because of the restatement.

In subsection (a)(15), the words ''United States'' are omitted as surplus because of the definition of ''air carrier'' in section 40102(a) of the revised title.

In subsection (b)(3), the words ''unreasonable discrimination'' are substituted for ''unjust discriminations, undue preferences or advantages'' for consistency in the revised title and to eliminate unnecessary words.

In subsections (c) and (d), the reference to subpart III is added because the policies apply only to safety issues, and under the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), the Federal Aviation Administration was given responsibility for safety issues.

In subsection (c), before clause (1), the word ''Administrator'' in section 306 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 749) is retained on authority of 49:106(g). The words ''consider the following matters'' are substituted for ''give full consideration to'' for consistency in this section.

In subsection (d)(3), the word ''both'' in 49 App.:1303(c) is omitted as surplus the first time it appears. The words ''of the United States'' are omitted for consistency in the revised title and because of the definition of ''navigable airspace'' in section 40102(a) of the revised title. The words ''of those operations'' are added for clarity.

In subsection (d)(5), the word ''both'' in 49 App.:1303(e) is omitted as surplus.

In subsection (e), before clause (1), the words ''the Congress intends that'' are omitted as surplus. In clauses (1) and (4), the words ''United States'' are omitted as surplus because of the definition of ''air carrier'' in section 40102(a) of the revised title. In clause (2), the word ''prices'' is substituted for ''fares and rates'' because of the definition of ''price'' in section 40102(a). In clause (8), the words ''places in the United States'' are substituted for ''United States points'' for consistency in this chapter. The word ''air'' is added for clarity and consistency in this subtitle. In clause (9)(C), the word ''unreasonable'' is substituted for ''undue'' for consistency in the revised title and with other titles of the United States Code.

AMENDMENTS

1996—Subsec. (d)(1). Pub. L. 104–264, §401(a)(1)(B), added par. (1). Former par. (1) redesignated (2).

Subsec. (d)(2). Pub. L. 104–264, §401(a)(1)(A), (2)(A), redesignated par. (1) as (2) and struck out ''its development and'' after ''best promotes''. Former par. (2) redesignated (3).

Subsec. (d)(3). Pub. L. 104–264, §401(a)(1)(A), (2)(B), redesignated par. (2) as (3) and substituted ''encouraging and developing civil aeronautics, including new aviation technology'' for ''promoting, encouraging, and developing civil aeronautics''. Former par. (3) redesignated (4).

Subsec. (d)(4) to (7). Pub. L. 104–264, §401(a)(1)(A), redesignated pars. (3) to (6) as (4) to (7), respectively.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–137, §1, Dec. 2, 1997, 111 Stat. 2640, provided that: ''This Act [amending sections 40102, 44302, 44305, 44306, 44308, and 44310 of this title and enacting provisions set out as a note under section 44310 of this title] may be cited as the 'Aviation Insurance Reauthorization Act of 1997'.''

SHORT TITLE OF 1996 AMENDMENT

Section 1(a) of Pub. L. 104–264 provided that: ''This Act [see Tables for classification] may be cited as the 'Federal Aviation Reauthorization Act of 1996'.''

Section 201 of title II of Pub. L. 104–264 provided that: ''This title [enacting sections 40121, 40122, 45301, 45303, 48111, and 48201 of this title, amending sections 106 and 41742 of this title, renumbering section 45303 of this title as section 45304, repealing former section 45301 of this title, and enacting provisions set out as notes under this section and sections 106, 40110, and 41742 of this title] may be cited as the 'Air Traffic Management System Performance Improvement Act of 1996'.''

Section 278(a) of Pub. L. 104–264 provided that: ''This section [amending section 41742 of this title and enacting provisions set out as a note under section 41742 of this title] may be cited as the 'Rural Air Service Survival Act'.''

Section 501 of title V of Pub. L. 104–264 provided that: ''This title [amending sections 30305, 44936, and 46301 of this title and enacting provisions set out as notes under sections 30305 and 44935 of this title] may be cited as the 'Pilot Records Improvement Act of 1996'.''

Section 601 of title VI of Pub. L. 104–264 provided that: ''This title [enacting section 44724 of this title] may be cited as the 'Child Pilot Safety Act'.''

Section 701 of title VII of Pub. L. 104–264 provided that: ''This title [enacting sections 1136 and 41113 of this title and provisions set out as notes under section 41113 of this title] may be cited as the 'Aviation Disaster Family Assistance Act of 1996'.''

Section 801 of title VIII of Pub. L. 104–264 provided that: ''This title [enacting section 47133 of this title, amending sections 46301 and 47107 of this title and section 9502 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under section 47107 of this title] may be cited as the 'Airport Revenue Protection Act of 1996'.''

Section 1101 of title XI of Pub. L. 104–264 provided that: ''This title [amending sections 44501, 44508, and 48102 of this title] may be cited as the 'FAA Research, Engineering, and Development Management Reform Act of 1996'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–305, § 1(a), Aug. 23, 1994, 108 Stat. 1569, provided that: ''This Act [enacting sections 41311, 41714, 41715, 47129, 47130, and 47509 of this title, amending sections 106, 10521, 11501, 40102, 40113, 40116, 40117, 41713, 41734, 44502, 44505, 44938, 45301, 46301, 47101, 47102, 47104 to 47107, 47109 to 47111, 47115, 47117 to 47119, 47504, 48101 to 48104, and 48108 of this title and section 9502 of Title 26, Internal Revenue Code, renumbering former section 47129 of this title as section 47131 of this title, enacting provisions set out as notes under this section and sections 10521, 11501, 40102, 40105, 40117, 41311, 41715, 44502, 45102, 47101, 47107, 47124, and 49101 of this title, and repealing provisions set out as a note under section 1348 of former Title 49, Transportation] may be cited as the 'Federal Aviation Administration Authorization Act of 1994'.''

Pub. L. 103–305, title III, § 301, Aug. 23, 1994, 108 Stat. 1589, provided that: ''This title [enacting section 47509 of this title, amending sections 44505 and 48102 of this title, and enacting provisions set out as notes under this section and section 49101 of this title] may be cited as the 'Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1994'.''

FINDINGS

Section 271 of Pub. L. 104–264 provided that: ''Congress finds the following:

''(1) The Administration [Federal Aviation Administration] is recognized throughout the world as a leader in aviation safety.

''(2) The Administration certifies aircraft, engines, propellers, and other manufactured parts.

''(3) The Administration certifies more than 650 training schools for pilots and nonpilots, more than 4,858 repair stations, and more than 193 maintenance schools.

''(4) The Administration certifies pilot examiners, who are then qualified to determine if a person has the skills necessary to become a pilot.

''(5) The Administration certifies more than 6,000 medical examiners, each of whom is then qualified to medically certify the qualifications of pilots and nonpilots.

''(6) The Administration certifies more than 470 airports, and provides a limited certification for another 205 airports. Other airports in the United States are also reviewed by the Administration.

''(7) The Administration each year performs more than 355,000 inspections.

''(8) The Administration issues more than 655,000 pilot's licenses and more than 560,000 nonpilot's licenses (including mechanics).

''(9) The Administration's certification means that the product meets world-wide recognized standards of safety and reliability.

''(10) The Administration's certification means aviation-related equipment and services meet worldwide recognized standards.

''(11) The Administration's certification is recognized by governments and businesses throughout the world and as such may be a valuable element for any company desiring to sell aviation-related products throughout the world.

''(12) The Administration's certification may constitute a valuable license, franchise, privilege or benefits for the holders.

''(13) The Administration also is a major purchaser of computers, radars, and other systems needed to run the air traffic control system. The Administration's design, acceptance, commissioning, or certification of such equipment enables the private sector to market those products around the world, and as such confers a benefit on the manufacturer.

''(14) The Administration provides extensive services to public use aircraft.''

PURPOSES

Section 272 of title II of Pub. L. 104–264 provided that: ''The purposes of this subtitle [subtitle C (§§ 271–278) of title II of Pub. L. 104–264, enacting sections 45301, 45303, 48111, and 48201 of this title, amending section 41742 of this title, renumbering section 45303 of this title as section 45304, repealing former section 45301 of this title, and enacting provisions set out as notes under this section and section 41742 of this title] are—

''(1) to provide a financial structure for the Administration [Federal Aviation Administration] so that it will be able to support the future growth in the national aviation and airport system;

''(2) to review existing and alternative funding options, including incentive-based fees for services, and 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 ensure that any funding will be dedicated solely for the use of the Administration;

''(4) to authorize the Administration to recover the costs of its services from those who benefit from, but do not contribute to, the national aviation system and the services provided by the Administration;

''(5) to consider a fee system based on the cost or value of the services provided and other funding alternatives;

''(6) to develop funding options for Congress in order to provide for the long-term efficient and cost-effective support of the Administration and the aviation system; and

''(7) to achieve a more efficient and effective Administration for the benefit of the aviation transportation industry.''

INDEPENDENT ASSESSMENT OF FAA FINANCIAL REQUIREMENTS; ESTABLISHMENT OF NATIONAL CIVIL AVIATION REVIEW COMMISSION

Section 274 of Pub. L. 104–264 provided that:

''(a) INDEPENDENT ASSESSMENT.—

''(1) INITIATION.—Not later than 30 days after the date of the enactment of this Act [Oct. 9, 1996], the Administrator [of the Federal Aviation Administration] shall contract with an entity independent of the Administration [Federal Aviation Administration] and the Department of Transportation to conduct a complete independent assessment of the financial requirements of the Administration through the year 2002.

''(2) ASSESSMENT CRITERIA.—The Administrator shall provide to the independent entity estimates of the financial requirements of the Administration for the period described in paragraph (1), using as a base the fiscal year 1997 appropriation levels established by Congress. The independent assessment shall be based on an objective analysis of agency funding needs.

''(3) CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.—The independent assessment shall take into account all relevant factors, including—

''(A) anticipated air traffic forecasts;

''(B) other workload measures;

''(C) estimated productivity gains, if any, which contribute to budgetary requirements;

''(D) the need for programs; and

''(E) the need to provide for continued improvements in all facets of aviation safety, along with operational improvements in air traffic control.

''(4) COST ALLOCATION.—The independent assessment shall also assess the costs to the Administration occasioned by the provision of services to each segment of the aviation system.

''(5) DEADLINE.—The independent assessment shall be completed no later than 90 days after the contract is awarded, and shall be submitted to the Commission established under subsection (b), the Secretary [of Transportation], the Secretary of the Treasury, the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives.

''(b) NATIONAL CIVIL AVIATION REVIEW COMMISSION.—

''(1) ESTABLISHMENT.—There is established a commission to be known as the National Civil Aviation Review Commission (hereinafter in this section referred to as the 'Commission').

''(2) MEMBERSHIP.—The Commission shall consist of 21 members to be appointed as follows:

''(A) 13 members to be appointed by the Secretary, in consultation with the Secretary of the Treasury, from among individuals who have expertise in the aviation industry and who are able, collectively, to represent a balanced view of the issues important to general aviation, major air carriers, air cargo carriers, regional air carriers, business aviation, airports, aircraft manufacturers, the financial community, aviation industry workers, and airline passengers. At least one member appointed under this subparagraph shall have detailed knowledge of the congressional budgetary process.

''(B) Two members appointed by the Speaker of the House of Representatives.

''(C) Two members appointed by the minority leader of the House of Representatives.

''(D) Two members appointed by the majority leader of the Senate.

''(E) Two members appointed by the minority leader of the Senate.

''(3) TASK FORCES.—The Commission shall establish an aviation funding task force and an aviation safety task force to carry out the responsibilities of the Commission under this subsection.

''(4) FIRST MEETING.—The Commission may conduct its first meeting as soon as a majority of the members of the Commission are appointed.

''(5) HEARINGS AND CONSULTATION.—

''(A) HEARINGS.—The Commission shall take such testimony and solicit and receive such comments from the public and other interested parties as it considers appropriate, shall conduct 2 public hearings after affording adequate notice to the public thereof, and may conduct such additional hearings as may be necessary.

''(B) CONSULTATION.—The Commission shall consult on a regular and frequent basis with the Secretary, the Secretary of the Treasury, the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives.

''(C) FACA NOT TO APPLY.—The Commission shall not be considered an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

''(6) DUTIES OF AVIATION FUNDING TASK FORCE.—

''(A) REPORT TO SECRETARY.—

''(i) IN GENERAL.—The aviation funding task force established pursuant to paragraph (3) shall submit a report setting forth a comprehensive analysis of the Administration's budgetary requirements through fiscal year 2002, based upon the independent assessment under subsection (a), that analyzes alternative financing and funding means for meeting the needs of the aviation system through the year 2002. The task force shall submit a preliminary report of that analysis to the Secretary not later than 6 months after the independent assessment is completed under subsection (a). The Secretary shall provide comments on the preliminary report to the task force within 30 days after receiving the report. The task force shall issue a final report of such comprehensive analysis within 30 days after receiving the Secretary's comments on its preliminary report.

''(ii) CONTENTS.—The report submitted by the aviation funding task force under clause (i)—

''(I) shall consider the independent assessment under subsection (a);

''(II) shall consider estimated cost savings, if any, resulting from the procurement and personnel reforms included in this Act [see Tables for classification] or in sections 347 and 348 of Public Law 104–50 [49 U.S.C. 106 note, 40110 note], and additional financial initiatives;

''(III) shall include specific recommendations to Congress on how the Administration can reduce costs, raise additional revenue for the support of agency operations, and accelerate modernization efforts; and

''(IV) shall include a draft bill containing the changes in law necessary to implement its recommendations.

''(B) RECOMMENDATIONS.—The aviation funding task force shall make such recommendations under subparagraph (A)(ii)(III) as the task force deems appropriate. Those recommendations may include—

''(i) proposals for off-budget treatment of the Airport and Airway Trust Fund;

''(ii) alternative financing and funding proposals, including linked financing proposals;

''(iii) modifications to existing levels of Airport and Airways Trust Fund receipts and taxes for each type of tax;

''(iv) establishment of a cost-based user fee system based on, but not limited to, criteria under subparagraph (F) and methods to ensure that costs are borne by users on a fair and equitable basis;

''(v) methods to ensure that funds collected from the aviation community are able to meet the needs of the agency;

''(vi) methods to ensure that funds collected from the aviation community and passengers are used to support the aviation system;

''(vii) means of meeting the airport infrastructure needs for large, medium, and small airports; and

''(viii) any other matter the task force deems appropriate to address the funding and needs of the Administration and the aviation system.

''(C) ADDITIONAL RECOMMENDATIONS.—The aviation funding task force report may also make recommendations concerning—

''(i) means of improving productivity by expanding and accelerating the use of automation and other technology;

''(ii) means of contracting out services consistent with this Act, other applicable law, and safety and national defense needs;

''(iii) methods to accelerate air traffic control modernization and improvements in aviation safety and safety services;

''(iv) the elimination of unneeded programs; and

''(v) a limited innovative program based on funding mechanisms such as loan guarantees, financial partnerships with for-profit private sector entities, government-sponsored enterprises, and

revolving loan funds, as a means of funding specific facilities and equipment projects, and to provide limited additional funding alternatives for airport capacity development.

''(D) IMPACT ASSESSMENT FOR RECOMMENDATIONS.—For each recommendation contained in the aviation funding task force's report, the report shall include a full analysis and assessment of the impact implementation of the recommendation would have on—

''(i) safety;

''(ii) administrative costs;

''(iii) the congressional budget process;

''(iv) the economics of the industry (including the proportionate share of all users);

''(v) the ability of the Administration to utilize the sums collected; and

''(vi) the funding needs of the Administration.

''(E) TRUST FUND TAX RECOMMENDATIONS.—If the task force's report includes a recommendation that the existing Airport and Airways Trust Fund tax structure be modified, the report shall—

''(i) state the specific rates for each group affected by the proposed modifications;

''(ii) consider the impact such modifications shall have on specific users and the public (including passengers); and

''(iii) state the basis for the recommendations.

''(F) FEE SYSTEM RECOMMENDATIONS.—If the task force's report includes a recommendation that a fee system be established, including an air traffic control performance-based user fee system, the report shall consider—

''(i) the impact such a recommendation would have on passengers, air fares (including low-fare, high frequency service), service, and competition;

''(ii) existing contributions provided by individual air carriers toward funding the Administration and the air traffic control system through contributions to the Airport and Airways Trust Fund;

''(iii) continuing the promotion of fair and competitive practices;

''(iv) the unique circumstances associated with interisland air carrier service in Hawaii and rural air service in Alaska;

''(v) the impact such a recommendation would have on service to small communities;

''(vi) the impact such a recommendation would have on services provided by regional air carriers;

''(vii) alternative methodologies for calculating fees so as to achieve a fair and reasonable distribution of costs of service among users;

''(viii) the usefulness of phased-in approaches to implementing such a financing system;

''(ix) means of assuring the provision of general fund contributions, as appropriate, toward the support of the Administration; and

''(x) the provision of incentives to encourage greater efficiency in the provision of air traffic services by the Administration and greater efficiency in the use of air traffic services by aircraft operators.

''(7) DUTIES OF AVIATION SAFETY TASK FORCE.—

''(A) REPORT TO ADMINISTRATOR.—Not later than 1 year after the date of the enactment of this Act [Oct. 9, 1996], the aviation safety task force established pursuant to paragraph (3) shall submit to the Administrator a report setting forth a comprehensive analysis of aviation safety in the United States and emerging trends in the safety of particular sectors of the aviation industry.

''(B) CONTENTS.—The report to be submitted under subparagraph (A) shall include an assessment of—

''(i) the adequacy of staffing and training resources for safety personnel of the Administration, including safety inspectors;

''(ii) the Administration's processes for ensuring the public safety from fraudulent parts in civil aviation and the extent to which use of suspected unapproved parts requires additional oversight or enforcement action; and

''(iii) the ability of the Administration to anticipate changes in the aviation industry and to develop policies and actions to ensure the highest level of aviation safety in the 21st century.

''(8) ACCESS TO DOCUMENTS AND STAFF.—The Administration may give the Commission 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, United States Code (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 Commission who receives commercial or other proprietary data from the Administrator shall be subject to the provisions of section 1905 of title 18, United States Code, pertaining to unauthorized disclosure of such information.

''(9) TRAVEL AND PER DIEM.—Each member of the Commission 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, United States Code.

''(10) DETAIL OF PERSONNEL FROM THE ADMINISTRATION.—The Administrator shall make available to the Commission such staff, information, and administrative services and assistance as may reasonably be required to enable the Commission to carry out its responsibilities under this subsection.

''(11) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

''(c) REPORTS TO CONGRESS.—

''(1) REPORT BY THE SECRETARY BASED ON FINAL REPORT OF AVIATION FUNDING TASK FORCE.—

''(A) CONSIDERATION OF TASK FORCE'S PRELIMINARY REPORT.—Not later than 30 days after receiving the preliminary report of the aviation funding task force, the Secretary, in consultation with the Secretary of the Treasury, shall furnish comments on the report to the task force.

''(B) REPORT TO CONGRESS.—Not later than 30 days after receiving the final report of the aviation funding task force, and in no event more than 1 year after the date of the enactment of this Act, the Secretary, after consulting the Secretary of the Treasury, shall transmit a report to the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives. Such report shall be based upon the final report of the task force and shall contain the Secretary's recommendations for funding the needs of the aviation system through the year 2002.

''(C) CONTENTS.—The Secretary shall include in the report to Congress under subparagraph (B)—

''(i) a copy of the final report of the task force; and

''(ii) a draft bill containing the changes in law necessary to implement the Secretary's recommendations.

''(D) PUBLICATION.—The Secretary shall cause a copy of the report to be printed in the Federal Register upon its transmittal to Congress under subparagraph (B).

''(2) REPORT BY THE ADMINISTRATOR BASED ON FINAL REPORT OF AVIATION SAFETY TASK FORCE.—Not later than 30 days after receiving the report of the aviation safety task force, the Administrator shall transmit the report to Congress, together with the Administrator's recommendations for improving aviation safety in the United States.

''(d) GAO AUDIT OF COST ALLOCATION.—The Comptroller General shall conduct an assessment of the manner

in which costs for air traffic control services are allocated between the Administration and the Department of Defense. The Comptroller General shall report the results of the assessment, together with any recommendations the Comptroller General may have for reallocation of costs and for opportunities to increase the efficiency of air traffic control services provided by the Administration and by the Department of Defense, to the Commission, the Administrator, the Secretary of Defense, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate not later than 180 days after the date of the enactment of this Act.

''(e) GAO ASSESSMENT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall transmit to the Commission and Congress an independent assessment of airport development needs.''

JOINT AVIATION RESEARCH AND DEVELOPMENT PROGRAM

Pub. L. 103–305, title III, §303, Aug. 23, 1994, 108 Stat. 1590, provided that:

''(a) ESTABLISHMENT.—The Administrator [of the Federal Aviation Administration], in consultation with the heads of other appropriate Federal agencies, shall jointly establish a program to conduct research on aviation technologies that enhance United States competitiveness. The program shall include—

''(1) next-generation satellite communications, including global positioning satellites;

''(2) advanced airport and airplane security;

''(3) environmentally compatible technologies, including technologies that limit or reduce noise and air pollution;

''(4) advanced aviation safety programs; and

''(5) technologies and procedures to enhance and improve airport and airway capacity.

''(b) PROCEDURES FOR CONTRACTS AND GRANTS.—The Administrator and the heads of the other appropriate Federal agencies shall administer contracts and grants entered into under the program established under subsection (a) in accordance with procedures developed jointly by the Administrator and the heads of the other appropriate Federal agencies. The procedures should include an integrated acquisition policy for contract and grant requirements and for technical data rights that are not an impediment to joint programs among the Federal Aviation Administration, the other Federal agencies involved, and industry.

''(c) PROGRAM ELEMENTS.—The program established under subsection (a) shall include—

''(1) selected programs that jointly enhance public and private aviation technology development;

''(2) an opportunity for private contractors to be involved in such technology research and development; and

''(3) the transfer of Government-developed technologies to the private sector to promote economic strength and competitiveness.

''(d) AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized to be appropriated for fiscal years 1995 and 1996 under section 48102(a) of title 49, United States Code, as amended by section 302 of this title, there are authorized to be appropriated for fiscal years 1995 and 1996, respectively, such sums as may be necessary to carry out this section.''

AIRCRAFT CABIN AIR QUALITY RESEARCH PROGRAM

Pub. L. 103–305, title III, §304, Aug. 23, 1994, 108 Stat. 1591, provided that:

''(a) ESTABLISHMENT.—The Administrator [of the Federal Aviation Administration], in consultation with the heads of other appropriate Federal agencies, shall establish a research program to determine—

''(1) what, if any, aircraft cabin air conditions, including pressure altitude systems, on flights within the United States are harmful to the health of airline passengers and crew, as indicated by physical symptoms such as headaches, nausea, fatigue, and lightheadedness; and

''(2) the risk of airline passengers and crew contracting infectious diseases during flight.

''(b) CONTRACT WITH CENTER FOR DISEASE CONTROL.—In carrying out the research program established under subsection (a), the Administrator and the heads of the other appropriate Federal agencies shall contract with the Center for Disease Control [now Centers for Disease Control and Prevention] and other appropriate agencies to carry out any studies necessary to meet the goals of the program set forth in subsection (c).

''(c) GOALS.—The goals of the research program established under subsection (a) shall be—

''(1) to determine what, if any, cabin air conditions currently exist on domestic aircraft used for flights within the United States that could be harmful to the health of airline passengers and crew, as indicated by physical symptoms such as headaches, nausea, fatigue, and lightheadedness, and including the risk of infection by bacteria and viruses;

''(2) to determine to what extent, changes in, cabin air pressure, temperature, rate of cabin air circulation, the quantity of fresh air per occupant, and humidity on current domestic aircraft would reduce or eliminate the risk of illness or discomfort to airline passengers and crew; and

''(3) to establish a long-term research program to examine potential health problems to airline passengers and crew that may arise in an airplane cabin on a flight within the United States because of cabin air quality as a result of the conditions and changes described in paragraphs (1) and (2).

''(d) PARTICIPATION.—In carrying out the research program established under subsection (a), the Administrator shall encourage participation in the program by representatives of aircraft manufacturers, air carriers, aviation employee organizations, airline passengers, and academia.

''(e) REPORT.—(1) Within six months after the date of enactment of this Act [Aug. 23, 1994], the Administrator shall submit to the Congress a plan for implementation of the research program established under subsection (a).

''(2) The Administrator shall annually submit to the Congress a report on the progress made during the year for which the report is submitted toward meeting the goals set forth in subsection (c).

''(f) AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized to be appropriated for fiscal years 1995 and 1996 under section 48102(a) of title 49, United States Code, as amended by section 302 of this title, there are authorized to be appropriated for fiscal years 1995 and 1996, respectively, such sums as may be necessary to carry out this section.''

INFORMATION ON DISINSECTION OF AIRCRAFT

Pub. L. 103–305, title V, §507, Aug. 23, 1994, 108 Stat. 1595, provided that:

''(a) AVAILABILITY OF INFORMATION.—In the interest of protecting the health of air travelers, the Secretary shall publish a list of the countries (as determined by the Secretary) that require disinsection of aircraft landing in such countries while passengers and crew are on board such aircraft.

''(b) REVISION.—The Secretary shall revise the list required under subsection (a) on a periodic basis.

''(c) PUBLICATION.—The Secretary shall publish the list required under subsection (a) not later than 30 days after the date of the enactment of this Act [Aug. 23, 1994]. The Secretary shall publish a revision to the list not later than 30 days after completing the revision under subsection (b).''

GENERAL AVIATION REVITALIZATION ACT OF 1994

Pub. L. 103–298, Aug. 17, 1994, 108 Stat. 1552, as amended by Pub. L. 105–102, §3(e), Nov. 20, 1997, 111 Stat. 2215, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'General Aviation Revitalization Act of 1994'.

''SEC. 2. TIME LIMITATIONS ON CIVIL ACTIONS AGAINST AIRCRAFT MANUFACTURERS.

''(a) IN GENERAL.—Except as provided in subsection (b), no civil action for damages for death or injury to persons or damage to property arising out of an accident involving a general aviation aircraft may be brought against the manufacturer of the aircraft or the manufacturer of any new component, system, subassembly, or other part of the aircraft, in its capacity as a manufacturer if the accident occurred—

''(1) after the applicable limitation period beginning on—

''(A) the date of delivery of the aircraft to its first purchaser or lessee, if delivered directly from the manufacturer; or

''(B) the date of first delivery of the aircraft to a person engaged in the business of selling or leasing such aircraft; or

''(2) with respect to any new component, system, subassembly, or other part which replaced another component, system, subassembly, or other part originally in, or which was added to, the aircraft, and which is alleged to have caused such death, injury, or damage, after the applicable limitation period beginning on the date of completion of the replacement or addition.

''(b) EXCEPTIONS.—Subsection (a) does not apply—

''(1) if the claimant pleads with specificity the facts necessary to prove, and proves, that the manufacturer with respect to a type certificate or airworthiness certificate for, or obligations with respect to continuing airworthiness of, an aircraft or a component, system, subassembly, or other part of an aircraft knowingly misrepresented to the Federal Aviation Administration, or concealed or withheld from the Federal Aviation Administration, required information that is material and relevant to the performance or the maintenance or operation of such aircraft, or the component, system, subassembly, or other part, that is causally related to the harm which the claimant allegedly suffered;

''(2) if the person for whose injury or death the claim is being made is a passenger for purposes of receiving treatment for a medical or other emergency;

''(3) if the person for whose injury or death the claim is being made was not aboard the aircraft at the time of the accident; or

''(4) to an action brought under a written warranty enforceable under law but for the operation of this Act.

''(c) GENERAL AVIATION AIRCRAFT DEFINED.—For the purposes of this Act, the term 'general aviation aircraft' means any aircraft for which a type certificate or an airworthiness certificate has been issued by the Administrator of the Federal Aviation Administration, which, at the time such certificate was originally issued, had a maximum seating capacity of fewer than 20 passengers, and which was not, at the time of the accident, engaged in scheduled passenger-carrying operations as defined under regulations in effect under part A of subtitle VII of title 49, United States Code, at the time of the accident.

''(d) RELATIONSHIP TO OTHER LAWS.—This section supersedes any State law to the extent that such law permits a civil action described in subsection (a) to be brought after the applicable limitation period for such civil action established by subsection (a).

''SEC. 3. OTHER DEFINITIONS.

''For purposes of this Act—

''(1) the term 'aircraft' has the meaning given such term in section 40102(a)(6) of title 49, United States Code;

''(2) the term 'airworthiness certificate' means an airworthiness certificate issued under section 44704(c)(1) of title 49, United States Code, or under any predecessor Federal statute;

''(3) the term 'limitation period' means 18 years with respect to general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft; and

''(4) the term 'type certificate' means a type certificate issued under section 44704(a) of title 49, United States Code, or under any predecessor Federal statute.

''SEC. 4. EFFECTIVE DATE; APPLICATION OF ACT.

''(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act [Aug. 17, 1994].

''(b) APPLICATION OF ACT.—This Act shall not apply with respect to civil actions commenced before the date of the enactment of this Act.''

NATIONAL COMMISSION TO ENSURE A STRONG COMPETITIVE AIRLINE INDUSTRY

Pub. L. 102–581, title II, §204, Oct. 31, 1992, 106 Stat. 4891, as amended Pub. L. 103–13, §1, Apr. 7, 1993, 107 Stat. 43, provided for establishment of National Commission to Ensure a Strong Competitive Airline Industry to make a complete investigation and study of financial condition of the airline industry, adequacy of competition in the airline industry, and legal impediments to a financially strong and competitive airline industry, to report to President and Congress not later than 90 days after the date on which initial appointments of members to the Commission were completed, and to terminate on the 30th day following transmission of report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40105, 40118, 41109, 47101 of this title; title 39 section 5402.

§ 40102. Definitions

(a) GENERAL DEFINITIONS.—In this part—

(1) ''aeronautics'' means the science and art of flight.

(2) ''air carrier'' means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation.

(3) ''air commerce'' means foreign air commerce, interstate air commerce, the transportation of mail by aircraft, the operation of aircraft within the limits of a Federal airway, or the operation of aircraft that directly affects, or may endanger safety in, foreign or interstate air commerce.

(4) ''air navigation facility'' means a facility used, available for use, or designed for use, in aid of air navigation, including—

(A) a landing area;

(B) a light;

(C) apparatus or equipment for distributing weather information, signaling, radio-directional finding, or radio or other electromagnetic communication; and

(D) another structure or mechanism for guiding or controlling flight in the air or the landing and takeoff of aircraft.

(5) ''air transportation'' means foreign air transportation, interstate air transportation, or the transportation of mail by aircraft.

(6) ''aircraft'' means any contrivance invented, used, or designed to navigate, or fly in, the air.

(7) ''aircraft engine'' means an engine used, or intended to be used, to propel an aircraft, including a part, appurtenance, and accessory of the engine, except a propeller.

(8) ''airman'' means an individual—

(A) in command, or as pilot, mechanic, or member of the crew, who navigates aircraft when under way;

(B) except to the extent the Administrator of the Federal Aviation Administration may provide otherwise for individuals employed outside the United States, who is directly in charge of inspecting, maintaining, overhauling, or repairing aircraft, aircraft engines, propellers, or appliances; or

(C) who serves as an aircraft dispatcher or air traffic control-tower operator.

(9) ''airport'' means a landing area used regularly by aircraft for receiving or discharging passengers or cargo.

(10) ''all-cargo air transportation'' means the transportation by aircraft in interstate air transportation of only property or only mail, or both.

(11) ''appliance'' means an instrument, equipment, apparatus, a part, an appurtenance, or an accessory used, capable of being used, or intended to be used, in operating or controlling aircraft in flight, including a parachute, communication equipment, and another mechanism installed in or attached to aircraft during flight, and not a part of an aircraft, aircraft engine, or propeller.

(12) ''cargo'' means property, mail, or both.

(13) ''charter air carrier'' means an air carrier holding a certificate of public convenience and necessity that authorizes it to provide charter air transportation.

(14) ''charter air transportation'' means charter trips in air transportation authorized under this part.

(15) ''citizen of the United States'' means—

(A) an individual who is a citizen of the United States;

(B) a partnership each of whose partners is an individual who is a citizen of the United States; or

(C) a corporation or association organized under the laws of the United States or a State, the District of Columbia, or a territory or possession of the United States, of which the president and at least two-thirds of the board of directors and other managing officers are citizens of the United States, and in which at least 75 percent of the voting interest is owned or controlled by persons that are citizens of the United States.

(16) ''civil aircraft'' means an aircraft except a public aircraft.

(17) ''civil aircraft of the United States'' means an aircraft registered under chapter 441 of this title.

(18) ''conditional sales contract'' means a contract—

(A) for the sale of an aircraft, aircraft engine, propeller, appliance, or spare part, under which the buyer takes possession of the property but title to the property vests in the buyer at a later time on—

(i) paying any part of the purchase price;

(ii) performing another condition; or

(iii) the happening of a contingency; or

(B) to bail or lease an aircraft, aircraft engine, propeller, appliance, or spare part, under which the bailee or lessee—

(i) agrees to pay an amount substantially equal to the value of the property; and

(ii) is to become, or has the option of becoming, the owner of the property on complying with the contract.

(19) ''conveyance'' means an instrument, including a conditional sales contract, affecting title to, or an interest in, property.

(20) ''Federal airway'' means a part of the navigable airspace that the Administrator designates as a Federal airway.

(21) ''foreign air carrier'' means a person, not a citizen of the United States, undertaking by any means, directly or indirectly, to provide foreign air transportation.

(22) ''foreign air commerce'' means the transportation of passengers or property by aircraft for compensation, the transportation of mail by aircraft, or the operation of aircraft in furthering a business or vocation, between a place in the United States and a place outside the United States when any part of the transportation or operation is by aircraft.

(23) ''foreign air transportation'' means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft, between a place in the United States and a place outside the United States when any part of the transportation is by aircraft.

(24) ''interstate air commerce'' means the transportation of passengers or property by aircraft for compensation, the transportation of mail by aircraft, or the operation of aircraft in furthering a business or vocation—

(A) between a place in—

(i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States;

(ii) a State and another place in the same State through the airspace over a place outside the State;

(iii) the District of Columbia and another place in the District of Columbia; or

(iv) a territory or possession of the United States and another place in the same territory or possession; and

(B) when any part of the transportation or operation is by aircraft.

(25) ''interstate air transportation'' means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft—

(A) between a place in—

(i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States;

(ii) Hawaii and another place in Hawaii through the airspace over a place outside Hawaii;

(iii) the District of Columbia and another place in the District of Columbia; or

(iv) a territory or possession of the United States and another place in the same territory or possession; and

(B) when any part of the transportation is by aircraft.

(26) ''intrastate air carrier'' means a citizen of the United States undertaking by any means to provide only intrastate air transportation.

(27) ''intrastate air transportation'' means the transportation by a common carrier of passengers or property for compensation, entirely in the same State, by turbojet-powered aircraft capable of carrying at least 30 passengers.

(28) ''landing area'' means a place on land or water, including an airport or intermediate landing field, used, or intended to be used, for the takeoff and landing of aircraft, even when facilities are not provided for sheltering, servicing, or repairing aircraft, or for receiving or discharging passengers or cargo.

(29) ''mail'' means United States mail and foreign transit mail.

(30) ''navigable airspace'' means airspace above the minimum altitudes of flight prescribed by regulations under this subpart and subpart III of this part, including airspace needed to ensure safety in the takeoff and landing of aircraft.

(31) ''navigate aircraft'' and ''navigation of aircraft'' include piloting aircraft.

(32) ''operate aircraft'' and ''operation of aircraft'' mean using aircraft for the purposes of air navigation, including—

(A) the navigation of aircraft; and

(B) causing or authorizing the operation of aircraft with or without the right of legal control of the aircraft.

(33) ''person'', in addition to its meaning under section 1 of title 1, includes a governmental authority and a trustee, receiver, assignee, and other similar representative.

(34) ''predatory'' means a practice that violates the antitrust laws as defined in the first section of the Clayton Act (15 U.S.C. 12).

(35) ''price'' means a rate, fare, or charge.

(36) ''propeller'' includes a part, appurtenance, and accessory of a propeller.

(37) ''public aircraft''—

(A) means an aircraft—

(i) used only for the United States Government;

(ii) owned by the United States Government and operated by any person for purposes related to crew training, equipment development, or demonstration; or

(iii) owned and operated (except for commercial purposes), or exclusively leased for at least 90 continuous days, by a government (except the United States Government), including a State, the District of Columbia, or a territory or possession of the United States, or political subdivision of that government; but

(B) does not include a government-owned aircraft—

(i) transporting property for commercial purposes; or

(ii) transporting passengers other than—

(I) transporting (for other than commercial purposes) crewmembers or other persons aboard the aircraft whose presence is required to perform, or is associated with the performance of, a governmental function such as firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management; or

(II) transporting (for other than commercial purposes) persons aboard the aircraft if the aircraft is operated by the Armed Forces or an intelligence agency of the United States.

An aircraft described in the preceding sentence shall, notwithstanding any limitation relating to use of the aircraft for commercial purposes, be considered to be a public aircraft for the purposes of this part without regard to whether the aircraft is operated by a unit of government on behalf of another unit of government, pursuant to a cost reimbursement agreement between such units of government, if the unit of government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation was necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator was reasonably available to meet the threat.

(38) ''spare part'' means an accessory, appurtenance, or part of an aircraft (except an aircraft engine or propeller), aircraft engine (except a propeller), propeller, or appliance, that is to be installed at a later time in an aircraft, aircraft engine, propeller, or appliance.

(39) ''State authority'' means an authority of a State designated under State law—

(A) to receive notice required to be given a State authority under subpart II of this part; or

(B) as the representative of the State before the Secretary of Transportation in any matter about which the Secretary is required to consult with or consider the views of a State authority under subpart II of this part.

(40) ''ticket agent'' means a person (except an air carrier, a foreign air carrier, or an employee of an air carrier or foreign air carrier) that as a principal or agent sells, offers for sale, negotiates for, or holds itself out as selling, providing, or arranging for, air transportation.

(41) ''United States'' means the States of the United States, the District of Columbia, and the territories and possessions of the United States, including the territorial sea and the overlying airspace.

(b) LIMITED DEFINITION.—In subpart II of this part, ''control'' means control by any means.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1097; Pub. L. 103–305, title VI, § 601(b)(2)(B), Aug. 23, 1994, 108 Stat. 1606; Pub. L. 103–411, § 3(a), Oct. 25, 1994, 108 Stat. 4236; Pub. L. 103–429, § 6(46), Oct. 31, 1994, 108 Stat. 4384; Pub. L. 105–137, § 6, Dec. 2, 1997, 111 Stat. 2641.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40102(a)(1) ..	49 App.:1301(2).	Aug. 23, 1958, Pub. L. 85–726, §§101(2), (3) (less proviso), (5)–(10), 413, 72 Stat. 737, 770.
40102(a)(2) ..	49 App.:1301(3) (less proviso).	
40102(a)(3) ..	49 App.:1301(4).	Aug. 23, 1958, Pub. L. 85–726, §101(4), 72 Stat. 737; Sept. 5, 1961, Pub. L. 87–197, §3, 75 Stat. 467.
40102(a)(4) ..	49 App.:1301(8).	
40102(a)(5) ..	49 App.:1301(10).	
40102(a)(6), (7).	49 App.:1301(5), (6).	
40102(a)(8) ..	49 App.:1301(7).	
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
40102(a)(9) ..	49 App.:1301(9).	
40102(a)(10)	49 App.:1301(11).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §101(11); added Nov. 9, 1977, Pub. L. 95–163, §17(b)(2), 91 Stat. 1286; restated Oct. 4, 1984, Pub. L. 98–443, §9(a)(1), 98 Stat. 1706.
40102(a)(11)	49 App.:1301(12).	Aug. 23, 1958, Pub. L. 85–726, §101(12), (16)–(34), (37), (40), (41), 72 Stat. 737, 739; July 10, 1962, Pub. L. 87–528, §1, 76 Stat. 143; Sept. 26, 1968, Pub. L. 90–514, §1, 82 Stat. 867; Oct. 14, 1970, Pub. L. 91–449, §1(2), 84 Stat. 921; Aug. 5, 1974, Pub. L. 93–366, §206, 88 Stat. 419; Nov. 9, 1977, Pub. L. 95–163, §17(b)(1), 91 Stat. 1286; Oct. 24, 1978, Pub. L. 95–504, §2(a)(4), (b), 92 Stat. 1705.
40102(a)(12)	(no source).	
40102(a)(13)	49 App.:1301(14) (less certificate).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §101(14) (less certificate), (15); added Oct. 24, 1978, Pub. L. 95–504, §2(a)(1), 92 Stat. 1705.
40102(a)(14)	49 App.:1301(15).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
40102(a)(15)–(18).	49 App.:1301(16)–(19).	
40102(a)(19)	49 App.:1301(20).	
40102(a)(20)	49 App.:1301(21).	
	49 App.:1655(c)(1).	
40102(a)(21)	49 App.:1301(22).	
40102(a)(22)	49 App.:1301(23) (related to foreign air commerce).	
40102(a)(23)	49 App.:1301(24) (related to foreign air transportation).	
40102(a)(24)	49 App.:1301(23) (related to interstate and overseas air commerce).	
40102(a)(25)	49 App.:1301(24) (related to interstate and overseas air transportation).	
	49 App.:1305(b)(2), (d) (related to (b)(2)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §105(b)(2), (d) (related to (b)(2)); added Oct. 24, 1978, Pub. L. 95–504, §4(a), 92 Stat. 1708.
40102(a)(26)–(32).	49 App.:1301(25)–(31).	
40102(a)(33)	49 App.:1301(32).	
40102(a)(34)	49 App.:1301(35).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §101(35), (39); added Oct. 24, 1978, Pub. L. 95–504, §2(a)(2), (3), (b), 92 Stat. 1705.
40102(a)(35)	(no source).	
40102(a)(36)	49 App.:1301(33), (34).	
40102(a)(37)	49 App.:1301(36).	Aug. 23, 1958, Pub. L. 85–726, §101(36), 72 Stat. 739; Aug. 5, 1974, Pub. L. 93–366, §206, 88 Stat. 419; Nov. 9, 1977, Pub. L. 95–163, §17(b)(1), 91 Stat. 1286; Oct. 24, 1978, Pub. L. 95–504, §2, 92 Stat. 1705; Dec. 30, 1987, Pub. L. 100–223, §207, 101 Stat. 1523.
40102(a)(38)	49 App.:1301(37).	
40102(a)(39)	49 App.:1301(39).	
40102(a)(40)	49 App.:1301(40).	
40102(a)(41)	49 App.:1301(41).	
40102(b)	49 App.:1383.	

In subsection (a)(2), the words ''by any means'' are substituted for ''whether . . . or by a lease or any other arrangement'' to eliminate unnecessary words. The word ''provide'' is substituted for ''engage in'' for consistency in the revised title.

In subsection (a)(3), the words ''or navigation'' are omitted as being included in the definition of ''operation of aircraft'' in this subsection.

In subsection (a)(4)(D), the words ''having a similar purpose'' are omitted as surplus.

In subsection (a)(6), the words ''now known or hereafter'' are omitted as surplus.

In subsection (a)(7), the words ''of the engine'' are substituted for ''thereof'' for clarity.

In subsection (a)(8)(A), the words ''as the person'' are omitted as surplus.

In subsection (a)(10), the word ''transportation'' is substituted for ''carriage'' for consistency in the revised title.

In subsection (a)(11), the words ''of whatever description'' are omitted as surplus. The word ''navigation'' is omitted as being included in the definition of ''operate aircraft'' in this subsection. The words ''or mechanisms'' are omitted because of 1:1.

Subsection (a)(12) is added for clarity to distinguish between cargo (which includes mail) and property (which does not include mail).

In subsection (a)(13), the word ''provide'' is substituted for ''engage in'' for consistency in the revised title.

In subsection (a)(14), the words ''including inclusive tour charter trips'' are omitted as obsolete. The words ''authorized under this part'' are substituted for ''rendered pursuant to authority conferred under this chapter under regulations prescribed by the Board'' to eliminate unnecessary words.

In subsection (a)(15)(A), the words ''or of one of its possessions'' are omitted as being included in the definition of ''United States'' in this subsection.

In subsection (a)(15)(C), the words ''created or'' are omitted as being included in ''organized''.

In subsection (a)(17), the words ''chapter 441 of this title'' are substituted for ''this chapter'' for clarity because aircraft are registered only under chapter 441.

In subsection (a)(18), the text of 49 App.:1301(19) (last sentence) is omitted as surplus.

In subsection (a)(18)(A), before subclause (i), the words ''title to'' are added for clarity and consistency in this section.

In subsection (a)(18)(B)(i), the words ''as compensation'' are omitted as surplus.

In subsection (a)(18)(B)(ii), the words ''it is agreed that'', ''bound'', ''full'', and ''the terms of'' are omitted as surplus.

In subsection (a)(19), the words ''bill of sale . . . mortgage, assignment of mortgage, or other'' are omitted as being included in ''instrument''.

In subsection (a)(20), the words ''of the United States'' are omitted for consistency in the revised title and because of the definition of ''navigable airspace'' in this subsection.

In subsection (a)(21), the words ''by any means'' are substituted for ''whether . . . or by lease or any other arrangement'' to eliminate unnecessary words. The word ''provide'' is substituted for ''engage in'' for consistency in the revised title.

In subsection (a)(22)–(25) and (27), the words ''transportation'' and ''passengers'' are substituted for ''carriage'' and ''persons'', respectively, for consistency in the revised title. The word ''compensation'' is substituted for, and is coextensive with, ''compensation or hire''.

In subsection (a)(22) and (24), the words ''or navigation'' are omitted as being included in the definition of ''operation of aircraft'' in this subsection. The words ''the conduct or'' and ''in commerce'' are omitted as surplus. The words ''when any part of the transportation or operation is by aircraft'' are substituted for 49 App.:1301(23) (words after last semicolon) to eliminate unnecessary words.

In subsection (a)(23) and (25), the words ''in commerce'' are omitted as surplus. The words ''when any part of the transportation is by aircraft'' are substituted for 49 App.:1301(24) (words after last semicolon) to eliminate unnecessary words.

In subsection (a)(24), (25), and (27), the words ''of the United States'' are omitted as surplus.

In subsection (a)(24)(A)(i) and (25)(A)(i), the words ''or the District of Columbia'' the first time they appear are omitted as surplus.

In subsection (a)(25)(A)(ii), the text of 49 App.:1301(24)(a) (words between semicolons) is omitted because 49 App.:1305(b)(2) removes the subject matter of the text from the definition. See H. Rept. No. 95–1211, 95th Cong., 2d Sess., p.16 (1978).

In subsection (a)(26), the words ''by any means'' are substituted for ''whether . . . or by a lease or any other arrangement'' to eliminate unnecessary words. The word ''provide'' is substituted for ''engage'' for consistency in the revised title.

In subsection (a)(28), the word ''place'' is substituted for ''locality'' for consistency in the revised title.

In subsection (a)(32)(B), the words ''(in the capacity of owner, lessee, or otherwise)'' are omitted as surplus.

In subsection (a)(33), the words ''in addition to its meaning under section 1 of title 1'' are substituted for ''any individual, firm, copartnership, corporation, company, association, joint stock association'' for clarity because 1:1 is applicable to all laws unless otherwise provided. The words ''governmental authority'' are substituted for ''body politic'' for consistency in the revised title and with other titles of the United States Code.

Subsection (a)(35) is added to eliminate repetition of the words ''rates, fares, or charges'' throughout this part.

In subsection (a)(36), the text of 49 App.:1301(34) (1st sentence) is omitted as obsolete. Reference to the Canal Zone is omitted because of the Panama Canal Treaty of 1977. The text of 49 App.:1301(34) (last sentence) is omitted because of 48:734.

Subsection (a)(37)(A)(i) is substituted for ''used exclusively in the service of any government'' and ''For purposes of this paragraph, 'used exclusively in the service of' means, for other than the Federal Government'' for clarity and to eliminate unnecessary words.

Subsection (a)(37)(A)(ii) is substituted for ''used exclusively in the service of any government or of any political subdivision thereof, including the government of any State, Territory, or possession of the United States, or the District of Columbia'' and ''For purposes of this paragraph, 'used exclusively in the service of' means, for other than the Federal Government, an aircraft which is owned and operated by a governmental entity for other than commercial purposes or which is exclusively leased by such governmental entity for not less than 90 continuous days'' for clarity and to eliminate unnecessary words.

In subsection (a)(37)(B), the words ''transporting passengers or property'' are substituted for ''engaged in carrying persons or property'' for consistency in the revised title.

In subsection (a)(38), the words ''that is to be installed at a later time'' are substituted for ''maintained for installation or use . . . but which at the time are not installed therein or attached thereto'' to eliminate unnecessary words.

In subsection (a)(39), the word ''authority'' is substituted for ''agency'' and ''entity'' for consistency in the revised title. Before subclause (A), the words ''department, agency, officer, or other'' are omitted as being included in ''authority''.

In subsection (a)(40), the words ''bona fide'' and ''by solicitation, advertisement, or otherwise'' are omitted as surplus. The words ''furnishes, contracts'' are omitted as being included in ''providing, or arranging''.

In subsection (a)(41), the words ''States of the United States'' are substituted for ''several States'', and the word ''sea'' is substituted for ''waters'', for consistency in the revised title and with other titles of the Code.

Subsection (b) is substituted for 49 App.:1383 to eliminate unnecessary words.

PUB. L. 103–429

This makes a conforming amendment for consistency with the style of title 49.

AMENDMENTS

1997—Subsec. (a)(37)(A). Pub. L. 105–137 struck out ''or'' at end of cl. (i), added cl. (ii), and redesignated former cl. (ii) as (iii).

1994—Subsec. (a)(30). Pub. L. 103–429 substituted ''this subpart and subpart III'' for ''subparts I and III''.

Subsec. (a)(35). Pub. L. 103–305 struck out ''for air transportation'' after ''charge''.

Subsec. (a)(37)(B). Pub. L. 103–411 added subpar. (B) and struck out former subpar. (B) which read as follows: ''does not include a government-owned aircraft transporting passengers or property for commercial purposes.''

EFFECTIVE DATE OF 1994 AMENDMENTS

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

Amendment by Pub. L. 103–411 effective on the 180th day following Oct. 25, 1994, see section 3(d) of Pub. L. 103–411, set out as a note under section 1131 of this title.

Amendment by Pub. L. 103–305 effective Jan. 1, 1995, see section 601(d) of Pub. L. 103–305, set out as a note under section 10521 of this title.

DEFINITIONS APPLICABLE TO PUB. L. 103–305

Section 2 of Pub. L. 103–305 provided that: ''In this Act [see Short Title of 1994 Amendment note set out under section 40101 of this title], the following definitions apply:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 321, 1101, 1131, 5114, 47129, 47302, 47522 of this title; title 8 section 1184; title 10 sections 2640, 9511; title 11 sections 365, 1110; title 15 section 2052; title 18 sections 31, 553; title 19 sections 1627a, 1644a, 2492; title 22 section 5605; title 29 section 1301; title 31 section 3726; title 39 sections 5005, 5007, 5402; title 42 sections 4902, 7574.

§ 40103. Sovereignty and use of airspace

(a) SOVEREIGNTY AND PUBLIC RIGHT OF TRANSIT.—(1) The United States Government has exclusive sovereignty of airspace of the United States.

(2) A citizen of the United States has a public right of transit through the navigable airspace.

To further that right, the Secretary of Transportation shall consult with the Architectural and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792) before prescribing a regulation or issuing an order or procedure that will have a significant impact on the accessibility of commercial airports or commercial air transportation for handicapped individuals.

(b) USE OF AIRSPACE.—(1) The Administrator of the Federal Aviation Administration shall develop plans and policy for the use of the navigable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. The Administrator may modify or revoke an assignment when required in the public interest.

(2) The Administrator shall prescribe air traffic regulations on the flight of aircraft (including regulations on safe altitudes) for—

(A) navigating, protecting, and identifying aircraft;

(B) protecting individuals and property on the ground;

(C) using the navigable airspace efficiently; and

(D) preventing collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects.

(3) To establish security provisions that will encourage and allow maximum use of the navigable airspace by civil aircraft consistent with national security, the Administrator, in consultation with the Secretary of Defense, shall—

(A) establish areas in the airspace the Administrator decides are necessary in the interest of national defense; and

(B) by regulation or order, restrict or prohibit flight of civil aircraft that the Administrator cannot identify, locate, and control with available facilities in those areas.

(4) Notwithstanding the military exception in section 553(a)(1) of title 5, subchapter II of chapter 5 of title 5 applies to a regulation prescribed under this subsection.

(c) FOREIGN AIRCRAFT.—A foreign aircraft, not part of the armed forces of a foreign country, may be navigated in the United States as provided in section 41703 of this title.

(d) AIRCRAFT OF ARMED FORCES OF FOREIGN COUNTRIES.—Aircraft of the armed forces of a foreign country may be navigated in the United States only when authorized by the Secretary of State.

(e) NO EXCLUSIVE RIGHTS AT CERTAIN FACILITIES.—A person does not have an exclusive right to use an air navigation facility on which Government money has been expended. However, providing services at an airport by only one fixed-based operator is not an exclusive right if—

(1) it is unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide the services; and

(2) allowing more than one fixed-based operator to provide the services requires a reduction in space leased under an agreement existing on September 3, 1982, between the operator and the airport.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1101.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40103(a)(1) ..	49 App.:1508(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §§307(a), (c), (d), 308(a) (3d sentence), 1108(a), 1201, 1202, 72 Stat. 749, 750, 751, 798, 800.
40103(a)(2) ..	49 App.:1304.	Aug. 23, 1958, Pub. L. 85–726, §104, 72 Stat. 740; Oct. 4, 1984, Pub. L. 98–443, §14, 98 Stat. 1711.
	49 App.:1551(b)(1)(E).	Aug. 28, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
40103(b)(1) ..	49 App.:1348(a).	
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
40103(b)(2) ..	49 App.:1348(c).	
	49 App.:1655(c)(1).	
40103(b)(3) ..	49 App.:1521.	
	49 App.:1522.	
	49 App.:1655(c)(1).	
40103(b)(4) ..	49 App.:1348(d).	
40103(c)	(no source).	
40103(d)	49 App.:1508(a) (last sentence).	
40103(e)	49 App.:1349(a) (3d sentence).	
	49 App.:1349(a) (last sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §308(a) (last sentence); added Sept. 3, 1982, Pub. L. 97–248, §524(a)(1), 96 Stat. 695.

In subsection (a)(1), the word ''has'' is substituted for ''is declared to possess and exercise complete and'' to eliminate surplus words. The word ''national'' is omitted as surplus. The text of 49 App.:1508(a) (1st sentence words after 1st comma) is omitted as surplus.

In subsection (a)(2), the words ''of the United States'' are omitted for consistency in the revised title and because of the definition of ''navigable airspace'' in section 40102(a) of the revised title. The words ''or amending'' are omitted as surplus.

In subsection (b), the word ''Administrator'' in section 307(a), (c), and (d) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 749, 750) is retained on authority of 49:106(g).

In subsection (b)(1) and (3)(B), the word ''rule'' is omitted as being synonymous with ''regulation''.

In subsection (b)(1), the words ''under such terms, conditions, and limitations as he may deem'' are omitted as surplus. The words ''In the exercise of his authority under section 1348(a) of this Appendix'' in 49 App.:1522 are omitted as unnecessary because of the restatement.

In subsection (b)(2), before clause (A), the word ''shall'' is substituted for ''is further authorized and directed'' for consistency in the revised title and to eliminate unnecessary words.

In subsection (b)(3), before clause (A), the words ''In the exercise of his authority under section 1348(a) of this Appendix'' in 49 App.:1522 are omitted as surplus. The word ''navigable'' is added for clarity and consistency. In clause (A), the words ''such zones or'' are omitted as surplus.

In subsection (b)(4), the words ''the military exception'' are substituted for ''any exception relating to military or naval functions'' to eliminate unnecessary words and because ''naval'' is included in ''military''. The words ''applies to a regulation prescribed under'' are substituted for ''In the exercise of the rulemaking authority . . . the Secretary of Transportation shall be subject to'' to eliminate unnecessary words and because ''rules'' and ''regulations'' are synonymous.

Subsection (c) is added for clarity.

In subsection (d), the words ''including the Canal Zone'' are omitted because of the Panama Canal Treaty of 1977.

In subsection (e), before clause (1), the words ''any landing area'' are omitted as being included in the defi-

nition of ''air navigation facility'' in section 40102(a) of the revised title. The word ''only'' is added for clarity. In clause (2), the words ''on September 3, 1982'' are added for clarity.

REGULATIONS

Pub. L. 85–726, title VI, § 613(a), (b), as added by Pub. L.101–508, title IX, § 9124, Nov. 5, 1990, 104 Stat. 1388–370, provided that:

''(a) NATIONAL DISASTER AREAS.—Before the 180th day following the date of the enactment of this section [Nov. 5, 1990], the Administrator, for safety and humanitarian reasons, shall issue such regulations as may be necessary to prohibit or otherwise restrict aircraft overflights of any inhabited area which has been declared a national disaster area in the State of Hawaii.

''(b) EXCEPTIONS.—Regulations issued pursuant to subsection (a) shall not be applicable in the case of aircraft overflights involving an emergency or a ligitimate [sic] scientific purpose.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40106, 40109, 44101, 44502, 46301, 46307, 46316 of this title.

§ 40104. Promotion of civil aeronautics and safety of air commerce

(a) DEVELOPING CIVIL AERONAUTICS AND SAFETY OF AIR COMMERCE.—The Administrator of the Federal Aviation Administration shall encourage the development of civil aeronautics and safety of air commerce in and outside the United States. In carrying out this subsection, the Administrator shall take action that the Administrator considers necessary to establish, within available resources, a program to distribute civil aviation information in each region served by the Administration. The program shall provide, on request, informational material and expertise on civil aviation to State and local school administrators, college and university officials, and officers of other interested organizations.

(b) DEVELOPING AND CONSTRUCTING CIVIL SUPERSONIC AIRCRAFT.—The Secretary of Transportation may develop and construct a civil supersonic aircraft.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1102; Pub. L. 103–429, § 6(47), Oct. 31, 1994, 108 Stat. 4384; Pub. L. 104–264, title IV, § 401(b)(1), Oct. 9, 1996, 110 Stat. 3255.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40104	49 App.:1346.	Aug. 23, 1958, Pub. L. 85–726, § 305, 72 Stat. 749.
	49 App.:1346a.	July 12, 1976, Pub. L. 94–353, § 21, 90 Stat. 884.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

The words ''and foster'' in 49 App.:1346 are omitted as surplus. The words ''In carrying out this section'' are substituted for ''In furtherance of his mandate to promote civil aviation'' in 49 App.:1346a because of the restatement. The word ''Administrator'' is substituted for ''Secretary of Transportation acting through the Administrator of the Federal Aviation Administration'' for consistency with the source provisions restated in this section. The words ''be designed so as to'', ''various aspects of'', and ''civil and'' are omitted as surplus.

PUB. L. 103–429, § 6(47)(A), (B)

This makes conforming amendments to 49:40104, as enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1102), because of the restatement of 49 App.:1655(c)(1) (words after last comma) as 49:40104(b) by section 6(47)(C) of the bill.

PUB. L. 103–429, § 6(47)(C)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40104(b)	49 App.:1655(c)(1) (words after last comma).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1) (words after last comma), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

AMENDMENTS

1996—Pub. L. 104–264, § 401(b)(1)(A), inserted ''safety of'' before ''air commerce'' in section catchline.

Subsec. (a). Pub. L. 104–264, § 401(b)(1)(B), (C), inserted ''SAFETY OF'' before ''AIR COMMERCE'' in heading and ''safety of'' before ''air commerce'' in text.

1994—Pub. L. 103–429 designated existing provisions as subsec. (a), inserted heading, substituted ''carrying out this subsection'' for ''carrying out this section'', and added subsec. (b).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§ 40105. International negotiations, agreements, and obligations

(a) ADVICE AND CONSULTATION.—The Secretary of State shall advise the Administrator of the Federal Aviation Administration and the Secretaries of Transportation and Commerce, and consult with them as appropriate, about negotiations for an agreement with a government of a foreign country to establish or develop air navigation, including air routes and services. The Secretary of Transportation shall consult with the Secretary of State in carrying out this part to the extent this part is related to foreign air transportation.

(b) ACTIONS OF SECRETARY AND ADMINISTRATOR.—(1) In carrying out this part, the Secretary of Transportation and the Administrator—

(A) shall act consistently with obligations of the United States Government under an international agreement;

(B) shall consider applicable laws and requirements of a foreign country; and

(C) may not limit compliance by an air carrier with obligations or liabilities imposed by the government of a foreign country when the Secretary takes any action related to a certificate of public convenience and necessity issued under chapter 411 of this title.

(2) This subsection does not apply to an agreement between an air carrier or an officer or representative of an air carrier and the government of a foreign country, if the Secretary of Trans-

portation disapproves the agreement because it is not in the public interest. Section 40106(b)(2) of this title applies to this subsection.

(c) CONSULTATION ON INTERNATIONAL AIR TRANSPORTATION POLICY.—In carrying out section 40101(e) of this title, the Secretaries of State and Transportation, to the maximum extent practicable, shall consult on broad policy goals and individual negotiations with—

(1) the Secretaries of Commerce and Defense;
(2) airport operators;
(3) scheduled air carriers;
(4) charter air carriers;
(5) airline labor;
(6) consumer interest groups;
(7) travel agents and tour organizers; and
(8) other groups, institutions, and governmental authorities affected by international aviation policy.

(d) CONGRESSIONAL OBSERVERS AT INTERNATIONAL AVIATION NEGOTIATIONS.—The President shall grant to at least one representative of each House of Congress the privilege of attending international aviation negotiations as an observer if the privilege is requested in advance in writing.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1102.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40105(a)	49 App.:1462.	Aug. 23, 1958, Pub. L. 85–726, §802, 72 Stat. 783.
	49 App.:1551(b)(1)(B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(B); added Oct. 24, 1978, Pub. L. 95–504, §40(a), 92 Stat. 1745.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat 2444.
40105(b)	49 App.:1502(a).	Aug. 23, 1958, Pub. L. 85–726, §1102(a), 72 Stat. 797; Feb. 15, 1980, Pub. L. 96–192, §17, 94 Stat. 42.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b) (1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	
40105(c)	49 App.:1502(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1102(c), (d); added Feb. 15, 1980, Pub. L. 96–192, §17, 94 Stat. 43.
	49 App.:1551(b)(1)(E).	
40105(d)	49 App.:1502(d).	

In subsection (a), the words ''government of a foreign country'' are substituted for ''foreign governments'' in 49 App.:1462 and ''foreign country'' in 49 App.:1502(a) for consistency in the revised title and with other titles of the United States Code. The words ''Secretary of Transportation'' are substituted for ''Department of Transportation'' in 49 App.:1551(b)(1)(B) because of 49:102(b). The words ''Secretary of State'' are substituted for ''Department of State'' because of 22:2651.

In subsection (b)(1), before clause (A), the words ''carrying out'' are substituted for ''exercising and performing . . . powers and duties'' for consistency in the revised title and with other titles of the Code. In clause (A), the words ''an international agreement'' are substituted for ''any treaty, convention, or agreement that may be in force between the United States and any foreign country or foreign countries'' for consistency and to eliminate unnecessary words. In clause (C), the word ''public'' is added for consistency in this part.

In subsection (b)(2), the words ''obligation, duty, or liability arising out of a contract or other'' and ''heretofore or hereafter'' are omitted as surplus. The words ''government of a foreign country'' are substituted for ''foreign country'' for consistency in the revised title and with other titles of the Code. The last sentence is inserted to inform the reader that section 40106(b)(2) of the revised title qualifies this subsection.

In subsection (c), before clause (1), the words ''To assist'' are omitted as surplus. The words ''carrying out'' are substituted for ''developing and implementing'' for consistency in the revised title and with other titles of the Code. The word ''both'' is omitted as surplus. In clause (8), the word ''authorities'' is substituted for ''agencies'' for consistency in the revised title and with other titles of the Code.

REPORT ON CERTAIN BILATERAL NEGOTIATIONS

Pub. L. 103–305, title V, §519, Aug. 23, 1994, 108 Stat. 1600, provided that: ''The Secretary shall report every other month to the Committee on Public Works and Transportation [now Committee on Transportation and Infrastructure] of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the status of all active aviation bilateral and multilateral negotiations and informal government-to-government consultations with United States aviation trade partners.''

WARSAW CONVENTION

49 Stat. 3000; TS 876

CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL TRANSPORTATION BY AIR

THE PRESIDENT OF THE GERMAN REICH, THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA, HIS MAJESTY THE KING OF THE BELGIANS, THE PRESIDENT OF THE UNITED STATES OF BRAZIL, HIS MAJESTY THE KING OF THE BULGARIANS, THE PRESIDENT OF THE NATIONALIST GOVERNMENT OF CHINA, HIS MAJESTY THE KING OF DENMARK AND ICELAND, HIS MAJESTY THE KING OF EGYPT, HIS MAJESTY THE KING OF SPAIN, THE CHIEF OF STATE OF THE REPUBLIC OF ESTONIA, THE PRESIDENT OF THE REPUBLIC OF FINLAND, THE PRESIDENT OF THE FRENCH REPUBLIC, HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND, AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA, THE PRESIDENT OF THE HELLENIC REPUBLIC, HIS MOST SERENE HIGHNESS THE REGENT OF THE KINGDOM OF HUNGARY, HIS MAJESTY THE KING OF ITALY, HIS MAJESTY THE EMPEROR OF JAPAN, THE PRESIDENT OF THE REPUBLIC OF LATVIA, HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBURG, THE PRESIDENT OF THE UNITED MEXICAN STATES, HIS MAJESTY THE KING OF NORWAY, HER MAJESTY THE QUEEN OF THE NETHERLANDS, THE PRESIDENT OF THE REPUBLIC OF POLAND, HIS MAJESTY THE KING OF RUMANIA, HIS MAJESTY THE KING OF SWEDEN, THE SWISS FEDERAL COUNCIL, THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC, THE CENTRAL EXECUTIVE COMMITTEE OF THE UNION OF SOVIET SOCIALIST REPUBLICS, THE PRESIDENT OF THE UNITED STATES OF VENEZUELA, HIS MAJESTY THE KING OF YUGOSLAVIA:

Having recognized the advantage of regulating in a uniform manner the conditions of international transportation by air in respect of the documents used for such transportation and of the liability of the carrier,

Have nominated to this end their respective Plenipotentiaries, who being thereto duly authorized, have concluded and signed the following convention:

CHAPTER I—SCOPE—DEFINITIONS

Article 1

(1) This convention shall apply to all international transportation of persons, baggage, or goods performed by aircraft for hire. It shall apply equally to gratuitous transportation by aircraft performed by an air transportation enterprise.

(2) For the purpose of this convention the expression ''international transportation'' shall mean any transportation in which, according to the contract made by the parties, the place of departure and the place of destination, whether or not there be a break in the transportation or a transshipment, are situated either with-

in the territories of two High Contracting Parties, or within the territory of a single High Contracting Party, if there is an agreed stopping place within a territory subject to the sovereignty, suzerainty, mandate or authority of another power, even though that power is not a party to this convention. Transportation without such an agreed stopping place between territories subject to the sovereignty, suzerainty, mandate, or authority of the same High Contracting Party shall not be deemed to be international for the purposes of this convention.

(3) Transportation to be performed by several successive air carriers shall be deemed, for the purposes of this convention, to be one undivided transportation, if it has been regarded by the parties as a single operation, whether it has been agreed upon under the form of a single contract or of a series of contracts, and it shall not lose its international character merely because one contract or series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate, or authority of the same High Contracting Party.

Article 2

(1) This convention shall apply to transportation performed by the state or by legal entities constituted under public law provided it falls within the conditions laid down in article 1.

(2) This convention shall not apply to transportation performed under the terms of any international postal convention.

CHAPTER II—TRANSPORTATION DOCUMENTS

SECTION I—PASSENGER TICKET

Article 3

(1) For the transportation of passengers the carrier must deliver a passenger ticket which shall contain the following particulars:

(*a*) The place and date of issue;

(*b*) The place of departure and of destination;

(*c*) The agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right, the alteration shall not have the effect of depriving the transportation of its international character;

(*d*) The name and address of the carrier or carriers;

(*e*) A statement that the transportation is subject to the rules relating to liability established by this convention.

(2) The absence, irregularity, or loss of the passenger ticket shall not affect the existence or the validity of the contract of transportation, which shall none the less be subject to the rules of this convention. Nevertheless, if the carrier accepts a passenger without a passenger ticket having been delivered he shall not be entitled to avail himself of those provisions of this convention which exclude or limit his liability.

SECTION II—BAGGAGE CHECK

Article 4

(1) For the transportation of baggage, other than small personal objects of which the passenger takes charge himself, the carrier must deliver a baggage check.

(2) The baggage check shall be made out in duplicate, one part for the passenger and the other part for the carrier.

(3) The baggage check shall contain the following particulars:

(*a*) The place and date of issue;

(*b*) The place of departure and of destination;

(*c*) The name and address of the carrier or carriers;

(*d*) The number of the passenger ticket;

(*e*) A statement that delivery of the baggage will be made to the bearer of the baggage check;

(*f*) The number and weight of the packages;

(*g*) The amount of the value declared in accordance with article 22(2);

(*h*) A statement that the transportation is subject to the rules relating to liability established by this convention.

(4) The absence, irregularity, or loss of the baggage check shall not affect the existence or the validity of the contract of transportation which shall none the less be subject to the rules of this convention. Nevertheless, if the carrier accepts baggage without a baggage check having been delivered, or if the baggage check does not contain the particulars set out at (*d*), (*f*), and (*h*) above, the carrier shall not be entitled to avail himself of those provisions of the convention which exclude or limit his liability.

SECTION III—AIR WAYBILL

Article 5

(1) Every carrier of goods has the right to require the consignor to make out and hand over to him a document called an ''air waybill'': every consignor has the right to require the carrier to accept this document.

(2) The absence, irregularity, or loss of this document shall not affect the existence or the validity of the contract of transportation which shall, subject to the provisions of article 9, be none the less governed by the rules of this convention.

Article 6

(1) The air waybill shall be made out by the consignor in three original parts and be handed over with the goods.

(2) The first part shall be marked ''for the carrier'', and shall be signed by the consignor. The second part shall be marked ''for the consignee''; it shall be signed by the consignor and by the carrier and shall accompany the goods. The third part shall be signed by the carrier and handed by him to the consignor after the goods have been accepted.

(3) The carrier shall sign on acceptance of the goods.

(4) The signature of the carrier may be stamped; that of the consignor may be printed or stamped.

(5) If, at the request of the consignor, the carrier makes out the air waybill, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 7

The carrier of goods has the right to require the consignor to make out separate waybills when there is more than package.

Article 8

The air waybill shall contain the following particulars:

(*a*) The place and date of its execution;

(*b*) The place of departure and of destination;

(*c*) The agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right the alteration shall not have the effect of depriving the transportation of its international character;

(*d*) The name and address of the consignor;

(*e*) The name and address of the first carrier;

(*f*) The name and address of the consignee, if the case so requires;

(*g*) The nature of the goods;

(*h*) The number of packages, the method of packing, and the particular marks or numbers upon them;

(*i*) The weight, the quantity, the volume, or dimensions of the goods;

(*j*) The apparent condition of the goods and of the packing;

(*k*) The freight, if it has been agreed upon, the date and place of payment, and the person who is to pay it;

(*l*) If the goods are sent for payment on delivery, the price of the goods, and, if the case so requires, the amount of the expenses incurred;

(*m*) The amount of the value declared in accordance with article 22(2);

(*n*) The number of parts of the air waybill;
(*o*) The documents handed to the carrier to accompany the air waybill;
(*p*) The time fixed for the completion of the transportation and a brief note of the route to be followed, of these matters have been agreed upon;
(*q*) A statement that the transportation is subject to the rules relating to liability established by this convention.

Article 9

If the carrier accepts goods without an air waybill having been made out, or if the air waybill does not contain all the particulars set out in article 8(*a*) to (*i*), inclusive, and (*q*), the carrier shall not be entitled to avail himself of the provisions of this convention which exclude or limit his liability.

Article 10

(1) The consignor shall be responsible for the correctness of the particulars and statements relating to the goods which he inserts in the air waybill.
(2) The consignor shall be liable for all damages suffered by the carrier or any other person by reason of the irregularity, incorrectness or incompleteness of the said particulars and statements.

Article 11

(1) The air waybill shall be *prima facie* evidence of the conclusion of the contract, of the receipt of the goods and of the conditions of transportation.
(2) The statements in the air waybill relating to the weight, dimensions, and packing of the goods, as well as those relating to the number of packages, shall be *prima facie* evidence of the facts stated; those relating to the quantity, volume, and condition of the goods shall not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the goods.

Article 12

(1) Subject to his liability to carry out all his obligations under the contract of transportation, the consignor shall have the right to dispose of the goods by withdrawing them at the airport of departure or destination, or by stopping them in the course of the journey on any landing, or by calling for them to be delivered at the place of destination, or in the course of the journey to a person other than the consignee named in the air waybill, or by requiring them to be returned to the airport of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors, and he must repay any expenses occasioned by the exercise of this right.
(2) If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.
(3) If the carrier obeys the orders of the consignor for the disposition of the goods without requiring the production of the part of the air waybill delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill.
(4) The right conferred on the consignor shall cease at the moment when that of the consignee begins in accordance with article 13, below. Nevertheless, if the consignee declines to accept the waybill or the goods, or if he cannot be communicated with, the consignor shall resume his right of disposition.

Article 13

(1) Except in the circumstances set out in the preceding article, the consignee shall be entitled, on arrival of the goods at the place of destination, to require the carrier to hand over to him the air waybill and to deliver the goods to him, on payment of the charges due and on complying with the conditions of transportation set out in the air waybill.
(2) Unless it is otherwise agreed, it shall be the duty of the carrier to give notice to the consignee as soon as the goods arrive.
(3) If the carrier admits the loss of the goods, or if the goods have not arrived at the expiration of seven days after the date on which they ought to have arrived, the consignee shall be entitled to put into force against the carrier the rights which flow from the contract of transportation.

Article 14

The consignor and the consignee can respectively enforce all the rights given them by articles 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

Article 15

(1) Articles 12, 13, and 14 shall not affect either the relations of the consignor and the consignee with each other or the relations of third parties whose rights are derived either from the consignor or from the consignee.
(2) The provisions of articles 12, 13, and 14 can only be varied by express provision in the air waybill.

Article 16

(1) The consignor must furnish such information and attach to the air waybill such documents as are necessary to meet the formalities of customs, octroi, or police before the goods can be delivered to the consignee. The consignor shall be liable to the carrier for any damage occasioned by the absence, insufficiency, or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his agents.
(2) The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III—LIABILITY OF THE CARRIER

Article 17

The carrier shall be liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

Article 18

(1) The carrier shall be liable for damage sustained in the event of the destruction or loss of, or of damage to, any checked baggage or any goods, if the occurrence which caused the damage so sustained took place during the transportation by air.
(2) The transportation by air within the meaning of the preceding paragraph shall comprise the period during which the baggage or goods are in charge of the carrier, whether in an airport or on board an aircraft, or in the case of a landing outside an airport, in any place whatsoever.
(3) The period of the transportation by air shall not extend to any transportation by land, by sea, or by river performed outside an airport. If, however, such transportation takes place in the performance of a contract for transportation by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the transportation by air.

Article 19

The carrier shall be liable for damage occasioned by delay in the transportation by air of passengers, baggage, or goods.

Article 20

(1) The carrier shall not be liable if he proves that he and his agents have taken all necessary measures to

avoid the damage or that it was impossible for him or them to take such measures.

(2) In the transportation of goods and baggage the carrier shall not be liable if he proves that the damage was occasioned by an error in piloting, in the handling of the aircraft, or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage.

Article 21

If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

Article 22

(1) In the transportation of passengers the liability of the carrier for each passenger shall be limited to the sum of 125,000 francs. Where, in accordance with the law of the court to which the case is submitted, damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed 125,000 francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

(2) In the transportation of checked baggage and of goods, the liability of the carrier shall be limited to a sum of 250 francs per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the actual value to the consignor at delivery.

(3) As regards objects of which the passenger takes charge himself the liability of the carrier shall be limited to 5,000 francs per passenger.

(4) The sums mentioned above shall be deemed to refer to the French franc consisting of 65½ milligrams of gold at the standard of fineness of nine hundred thousandths. These sums may be converted into any national currency in round figures.

Article 23

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this convention shall be null and void, but the nullity of any such provision shall not involve the nullity of the whole contract, which shall remain subject to the provisions of this convention.

Article 24

(1) In the cases covered by articles 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in this convention.

(2) In the cases covered by article 17 the provisions of the preceding paragraph shall also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

Article 25

(1) The carrier shall not be entitled to avail himself of the provisions of this convention which exclude or limit his liability, if the damage is caused by his willful misconduct or by such default on his part as, in accordance with the law of the court to which the case is submitted, is considered to be equivalent to wilful misconduct.

(2) Similarly the carrier shall not be entitled to avail himself of the said provisions, if the damage is caused under the same circumstances by any agent of the carrier acting within the scope of his employment.

Article 26

(1) Receipt by the person entitled to the delivery of baggage or goods without complaint shall be *prima facie* evidence that the same have been delivered in good condition and in accordance with the document of transportation.

(2) In case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within 3 days from the date of receipt in the case of baggage and 7 days from the date of receipt in the case of goods. In case of delay the complaint must be made at the latest within 14 days from the date on which the baggage or goods have been placed at his disposal.

(3) Every complaint must be made in writing upon the document of transportation or by separate notice in writing dispatched within the times aforesaid.

(4) Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

Article 27

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this convention against those legally representing his estate.

Article 28

(1) An action for damages must be brought, at the option of the plaintiff, in the territory of one of the High Contracting Parties, either before the court of the domicile of the carrier or of his principal place of business, or where he has a place of business through which the contract has been made, or before the court at the place of destination.

(2) Questions of procedure shall be governed by the law of the court to which the case in submitted.

Article 29

(1) The right to damages shall be extinguished if an action is not brought within 2 years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the transportation stopped.

(2) The method of calculating the period of limitation shall be determined by the law of the court to which the case is submitted.

Article 30

(1) In the case of transportation to be performed by various successive carriers and falling within the definition set out in the third paragraph of article 1, each carrier who accepts passengers, baggage or goods shall be subject to the rules set out in this convention, and shall be deemed to be one of the contracting parties to the contract of transportation insofar as the contract deals with that part of the transportation which is performed under his supervision.

(2) In the case of transportation of this nature, the passenger or his representative can take action only against the carrier who performed the transportation during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

(3) As regards baggage or goods, the passenger or consignor shall have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery shall have a right of action against the last carrier, and further, each may take action against the carrier who performed the transportation during which the destruction, loss, damage, or delay took place. These carriers shall be jointly and severally liable to the passenger or to the consignor or consignee.

CHAPTER IV—PROVISIONS RELATING TO COMBINED TRANSPORTATION

Article 31

(1) In the case of combined transportation performed partly by air and partly by any other mode of transportation, the provisions of this convention shall apply only to the transportation by air, provided that the

transportation by air falls within the terms of article 1.

(2) Nothing in this convention shall prevent the parties in the case of combined transportation from inserting in the document of air transportation conditions relating to other modes of transportation, provided that the provisions of this convention are observed as regards the transportation by air.

CHAPTER V—GENERAL AND FINAL PROVISIONS

Article 32

Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the transportation of goods arbitration clauses shall be allowed, subject to this convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of article 28.

Article 33

Nothing contained in this convention shall prevent the carrier either from refusing to enter into any contract of transportation or from making regulations which do not conflict with the provisions of this convention.

Article 34

This convention shall not apply to international transportation by air performed by way of experimental trial by air navigation enterprises with the view to the establishment of regular lines of air navigation, nor shall it apply to transportation performed in extraordinary circumstances outside the normal scope of an air carrier's business.

Article 35

The expression ''days'' when used in this convention means current days, not working days.

Article 36

This convention is drawn up in French in a single copy which shall remain deposited in the archives of the Ministry for Foreign Affairs of Poland and of which one duly certified copy shall be sent by the Polish Government to the Government of each of the High Contracting Parties.

Article 37

(1) This convention shall be ratified. The instruments of ratification shall be deposited in the archives of the Ministry for Foreign Affairs of Poland, which shall give notice of the deposit to the Government of each of the High Contracting Parties.

(2) As soon as this convention shall have been ratified by five of the High Contracting Parties it shall come into force as between them on the nineteenth day after the deposit of the fifth ratification. Thereafter it shall come into force between the High Contracting Parties which shall have ratified and the High Contracting Party which deposits its instrument of ratification on the ninetieth day after the deposit.

(3) It shall be the duty of the Government of the Republic of Poland to notify the Government of each of the High Contracting Parties of the date on which this convention comes into force as well as the date of the deposit of each ratification.

Article 38

(1) This convention shall, after it has come into force, remain open for adherence by any state.

(2) The adherence shall be effected by a notification addressed to the Government of the Republic of Poland, which shall inform the Government of each of the High Contracting Parties thereof.

(3) The adherence shall take effect as from the ninetieth day after the notification made to the Government of the Republic of Poland.

Article 39

(1) Any one of the High Contracting Parties may denounce this convention by a notification addressed to the Government of the Republic of Poland, which shall at once inform the Government of each of the High Contracting Parties.

(2) Denunciation shall take effect six months after the notification of denunciation, and shall operate only as regards the party which shall have proceeded to denunciation.

Article 40

(1) Any High Contracting Party may, at the time of signature or of deposit of ratification or of adherence, declare that the acceptance which it gives to this convention does not apply to all or any of its colonies, protectorates, territories under mandate, or any other territory subject to its sovereignty or its authority, or any other territory under its suzerainty.

(2) Accordingly any High Contracting Party may subsequently adhere separately in the name of all or any of its colonies, protectorates, territories under mandate, or any other territory subject to its sovereignty or to its authority or any other territory under its suzerainty which have been thus excluded by its original declaration.

(3) Any High Contracting Party may denounce this convention, in accordance with its provisions, separately or for all or any of its colonies, protectorates, territories under mandate, or any other territory subject to its sovereignty or to its authority, or any other territory under its suzerainty.

Article 41

Any High Contracting Party shall be entitled not earlier than two years after the coming into force of this convention to call for the assembling of a new international conference in order to consider any improvements which may be made in this convention. To this end it will communicate with the Government of the French Republic which will take the necessary measures to make preparations for such conference.

This convention, done at Warsaw on October 12, 1929, shall remain open for signature until January 31, 1930.

ORDER OF CIVIL AERONAUTICS BOARD APPROVING INCREASES IN LIABILITY LIMITATIONS OF WARSAW CONVENTION AND HAGUE PROTOCOL

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of May 1966.

The Convention for the Unification of Certain Rules Relating to International Transportation by Air, generally known as the Warsaw Convention, creates a uniform body of law with respect to the rights and responsibilities of passengers, shippers, and air carriers in international air transportation. The United States became a party to the Convention in 1934, and eventually over 90 countries likewise became parties to the Convention.[1] On November 15, 1965, the U.S. Government gave notice of denunciation of the Convention, emphasizing that such action was solely because of the Convention's low limits of liability for personal injury or death to passengers. Pursuant to Article 39 of the Convention this notice would become effective upon 6 months' notice, in this case, May 15, 1966. Subsequently, the International Air Transport Association (IATA) made efforts to effect an arrangement among air carriers, foreign air carriers, and other carriers (including carriers not members of IATA) providing the major portions of international air carriage to and from the United States to increase the limitations of

[1] The Convention was amended by the Protocol signed at Hague in 1955 which has never been ratified by the United States. The Convention (subject to certain provisions) limits carriers' liability for death or injury to passengers in international transportation to 125,000 gold francs, or approximately $8,300. The Protocol, subject to certain provisions, provides for liability limitations of approximately $16,600.

liability now applicable to claims for personal injury and death under the Convention and the Protocol. The purpose of such action is to provide a basis upon which the United States could withdrawn its notice of denunciation.

The arrangement proposed has been embodied in an agreement (Agreement CAB 18900) between various air carriers, foreign air carriers, and other carriers which has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 and Part 261 of the Board's economic regulations and assigned the above-designated CAB number.

By this agreement, the parties thereto bind themselves to include in their tariffs, effective May 16, 1966, a special contract in accordance with Article 22(1) of the Convention or the Protocol providing for a limit of liability for each passenger for death, wounding, or other bodily injury of $75,000 inclusive of legal fees, and, in case of a claim brought in a State where provision is made for separate award of legal fees and costs, a limit of $58,000 exclusive of legal fees and costs. These limitations shall be applicable to international transportation by the carrier as defined in the Convention or Protocol which includes a point in the United States as a point of origin, point of destination, or agreed stopping place. The parties further agree to provide in their tariffs that the Carrier shall not, with respect to any claim arising out of the death, wounding, or other bodily injury of a passenger, avail itself of any defense under Article 20(1) of the Convention or the Convention as amended by the Protocol. The tariff provisions would stipulate, however, that nothing therein shall be deemed to affect the rights and liabilities of the Carrier with regard to any claim brought by, on behalf of, or in respect of any person who has willfully caused damage which results in death, wounding, or other bodily injury of a passenger.

The carriers by the agreement further stipulate that they will, at time of delivery of the tickets, furnish to each passenger governed by the Convention or the Protocol and by the special contract described above, a notice in 10 point type advising international passengers of the limitations of liability established by the Convention or the Protocol, or the higher liability agreed to by the special contracts pursuant to the Convention or Protocol as described above. The agreement is to become effective upon arrival by this Board, and any carrier may become a party to it by signing a counterpart thereof and depositing it with the Board. Withdrawal from the agreement may be effected by giving 12 months' written notice to the Board and the other Carrier parties thereto.

As indicated, the decision of the U.S. Government to serve notice to denounce the Convention was predicated upon the low liability limits therein for personal injury and death. The Government announced, however, that it would be prepared to withdraw the Notice of Denunciation if, prior to its effective date, there is a reasonable prospect for international agreement on limits of liability for international transportation in the area of $100,000 per passenger or on uniform rules without any limit of liability, and if pending such international agreement there is a provisional arrangement among the principal international air carriers providing for liability up to $75,000 per passenger.

Steps, have been taken by the signing carriers to have tariffs become effective May 16, 1966, upon approval of this agreement, which will increase by special contract their liability for personal injury or death as described herein. The signatory carriers provide by far the greater portion of international transportation to, from, and within the United States. The agreement will result in a salutory increase in the protection given to passengers from the increased liability amounts and the waiver of defenses under Article 20(1) of the Convention or Protocol. The U.S. Government has concluded that such arrangements warrant withdrawal of the Notice of Denunciation of the Warsaw Convention. Implementation of the agreement will permit continued adherence to the Convention with the benefits to be derived therefrom, but without the imposition of the low liability limits therein contained upon most international travel involving travel to or from the United States. The stipulation that no tariff provision shall be deemed to affect the rights and liabilities of the carrier with regard to any claim brought by, on behalf of, or in respect of any person who has willfully caused damage which results in death, wounding or other bodily injury of a passenger operates to diminish any incentive for sabotage.

Upon consideration of the agreement, and of matters relating thereto of which the Board takes notice, the Board does not find that the agreement is adverse to the public interest or in violation of the Act and it will be approved.

Accordingly, pursuant to the provisions of the Federal Aviation Act of 1958, and particularly sections 102, 204(a), and 412 thereof:

It is ordered, That: 1. Agreement CAB 18900 is approved.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40106, 44907, 46101, 46301, 46316 of this title.

§ 40106. Emergency powers

(a) DEVIATIONS FROM REGULATIONS.—Appropriate military authority may authorize aircraft of the armed forces of the United States to deviate from air traffic regulations prescribed under section 40103(b)(1) and (2) of this title when the authority decides the deviation is essential to the national defense because of a military emergency or urgent military necessity. The authority shall—

(1) give the Administrator of the Federal Aviation Administration prior notice of the deviation at the earliest practicable time; and

(2) to the extent time and circumstances allow, make every reasonable effort to consult with the Administrator and arrange for the deviation in advance on a mutually agreeable basis.

(b) SUSPENSION OF AUTHORITY.—(1) When the President decides that the government of a foreign country is acting inconsistently with the Convention for the Suppression of Unlawful Seizure of Aircraft or that the government of a foreign country allows territory under its jurisdiction to be used as a base of operations or training of, or as a sanctuary for, or arms, aids, or abets, a terrorist organization that knowingly uses the unlawful seizure, or the threat of an unlawful seizure, of an aircraft as an instrument of policy, the President may suspend the authority of—

(A) an air carrier or foreign air carrier to provide foreign air transportation to and from that foreign country;

(B) a person to operate aircraft in foreign air commerce to and from that foreign country;

(C) a foreign air carrier to provide foreign air transportation between the United States and another country that maintains air service with the foreign country; and

(D) a foreign person to operate aircraft in foreign air commerce between the United States and another country that maintains air service with the foreign country.

(2) The President may act under this subsection without notice or a hearing. The suspension remains in effect for as long as the Presi-

dent decides is necessary to ensure the security of aircraft against unlawful seizure. Notwithstanding section 40105(b) of this title, the authority of the President to suspend rights under this subsection is a condition to a certificate of public convenience and necessity, air carrier operating certificate, foreign air carrier or foreign aircraft permit, or foreign air carrier operating specification issued by the Secretary of Transportation under this part.

(3) An air carrier or foreign air carrier may not provide foreign air transportation, and a person may not operate aircraft in foreign air commerce, in violation of a suspension of authority under this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1103.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40106(a)	49 App.:1348(f).	Aug. 23, 1958, Pub. L. 85–726, §307(f), 72 Stat. 750.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
40106(b)	49 App.:1514.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1114; added Aug. 5, 1974, Pub. L. 93–366, §106, 88 Stat. 413.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	

In subsection (a), before clause (1), the words ''armed forces'' are substituted for ''national defense forces'' because of 10:101. The words ''section 40103(b)(1) and (2) of this title'' are substituted for ''this subchapter'' as being more precise. In clauses (1) and (2), the word ''Administrator'' in section 307(f) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 750) is retained on authority of 49:106(g). In clause (2), the words ''fully'' and ''required'' are omitted as surplus.

In subsection (b)(1), the words ''government of a foreign country'' are substituted for ''foreign nation'' for consistency in the revised title and with other titles of the Code. Before clause (A), the words ''in a manner'' and ''in any way'' are omitted as surplus. The word ''authority'' is substituted for ''right'' as being more precise and for consistency in the revised title.

In subsection (b)(2), the words ''deemed to be'' are omitted because a legal conclusion is being stated.

In subsection (b)(3), the words ''by the President'' are omitted as surplus.

AIRCRAFT PIRACY

The United States is a party to the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague, Dec. 16, 1970, entered into force as to the United States, Oct. 14, 1971, 22 UST 1641.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40105, 44907, 46107, 46301 of this title.

§ 40107. Presidential transfers

(a) GENERAL AUTHORITY.—The President may transfer to the Administrator of the Federal Aviation Administration a duty, power, activity, or facility of a department, agency, or instrumentality of the executive branch of the United States Government, or an officer or unit of a department, agency, or instrumentality of the executive branch, related primarily to selecting, developing, testing, evaluating, establishing, operating, or maintaining a system, procedure, facility, or device for safe and efficient air navigation and air traffic control. In making a transfer, the President may transfer records and property and make officers and employees from the department, agency, instrumentality, or unit available to the Administrator.

(b) DURING WAR.—If war occurs, the President by executive order may transfer to the Secretary of Defense a duty, power, activity, or facility of the Administrator. In making the transfer, the President may transfer records, property, officers, and employees of the Administration to the Department of Defense.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1104.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40107(a)	49 App.:1345.	Aug. 23, 1958, Pub. L. 85–726, §§302(e), 304, 72 Stat. 746, 749.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
40107(b)	49 App.:1343(c). 49 App.:1655(c)(1).	

In this section, the words ''functions (including . . . parts of functions)'' are omitted as included in ''duty, power, activity, or facility''.

In subsection (a), the words ''of a department, agency, or instrumentality of the executive branch of the United States Government'' are substituted for ''the executive departments or agencies of the Government'' for consistency in the revised title and with other titles of the United States Code. The word ''unit'' is substituted for ''organizational entity'' for clarity. The words ''appropriate'' and ''civilian and military'' are omitted as surplus. The words ''officers and employees'' are substituted for ''personnel'' for consistency in the revised title and with other titles of the Code. The words ''to the Administrator'' are added for clarity.

In subsection (b), the text of 49 App.:1343(c) (words before proviso) is omitted as obsolete. The words ''Secretary of Defense'' are substituted for ''Department of Defense'' because of 10:133(a). The words ''prior to enactment of such proposed legislation'' are omitted as obsolete because the legislation was not enacted. The word ''appropriate'' is omitted as surplus. The words ''of the Administration to the Department of Defense'' are added for clarity.

EX. ORD. NO. 10786. TRANSFER OF FUNCTIONS OF THE AIRWAYS MODERNIZATION BOARD TO THE ADMINISTRATOR

Ex. Ord. No. 10786, Nov. 1, 1958, 23 F.R. 8573, provided:

SECTION 1. All functions (including powers, duties, activities, and parts of functions) of the Airways Modernization Board, including those of the Chairman thereof, are hereby transferred to the Administrator of the Federal Aviation Agency; and all records, property, facilities, employees, and unexpended balances of appropriations, allocations, and other funds of the Airways Modernization Board, are hereby transferred to the Federal Aviation Agency [now Federal Aviation Administration].

SEC. 2. Such further measures and dispositions, if any, as the Director of the Bureau of the Budget [now the Office of Management and Budget] shall determine to be necessary in connection with the transfers provided for hereinabove in respect of records, property, facilities, employees, and balances shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 3. The provisions of this order shall become effective concurrently with the entering upon office as

Administrator of the Federal Aviation Agency [now Federal Aviation Administration] of the first person appointed as Administrator. The functions transferred by section 1 hereof may be performed by the Administrator until the effective date of the repeal [Aug. 23, 1958] of the Airways Modernization Act of 1957 [former 49 U.S.C. 1211 et seq.] effected by section 1401(d) of the Federal Aviation Act of 1958 [Pub. L. 85–726].

DWIGHT D. EISENHOWER.

EX. ORD. NO. 10797. DELEGATION OF AUTHORITY TO THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

Ex. Ord. No. 10797, Dec. 24, 1958, 23 F.R. 10391, provided:

SECTION 1. There is hereby delegated to the Director of the Bureau of the Budget [now the Office of Management and Budget] all authority vested in the President by the last sentence of section 304 [see 49 U.S.C. 40107(a)], and by sections 1502(a) and 1502(b), of the Federal Aviation Act of 1958 (72 Stat. 749, 810) [Pub. L. 85–726, former 49 U.S.C. 1341 note], relating, respectively, (1) to providing in connection with transfers of functions made under other provisions of section 304, (i) for appropriate transfers of records and property, and (ii) for necessary civilian and military personnel to be made available from any office, department, or other agency from which transfers of functions are so made; (2) to determining the employees and property (including office equipment and official equipment and official records) employed by the Civil Aeronautics Board in the exercise and performance of those powers and duties which are vested in and imposed upon it by the Civil Aeronautics Act of 1938, as amended [former 49 U.S.C. 401 et seq.], and which are vested by the Federal Aviation Act of 1958 [see 49 U.S.C. 40101 et seq.] in the Federal Aviation Agency, and to specifying the date or dates upon which the transfers of officers, employees, and property (including office equipment and official records) under section 1502(a) shall occur; and (3) specifying the date or dates upon which transfers of unexpended balances of appropriations under section 1502(b) shall occur. Such further measures and dispositions as the Director of the Bureau of the Budget [now the Office of Management and Budget] shall determine to be necessary in connection with the exercise of the authority delegated to him by this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 2. Executive Order No. 10731 of October 10, 1957, delegating to the Director of the Bureau of the Budget [now the Office of Management and Budget] the authority vested in the President by a certain provision of the Airways Modernization Act of 1957 [former 49 U.S.C. 1211 et seq.], is hereby revoked, such revocation to become effective on the date the repeal of that act takes effect under sections 1401(d) [repealing former 49 U.S.C. 1211–1215] and 1505(2) [former 49 U.S.C. 1301 note] of the Federal Aviation Act of 1958 (72 Stat. 806, 811).

SEC. 3. Except as otherwise provided in section 2 hereof, the provisions of this order shall become effective immediately.

DWIGHT D. EISENHOWER.

EX. ORD. NO. 11047. DELEGATION OF AUTHORITY TO SECRETARY OF DEFENSE AND ADMINISTRATOR

Ex. Ord. No. 11047, Aug. 28, 1962, 27 F.R. 8665, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By the virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The Secretary of Defense and the Administrator of the Federal Aviation Administration are hereby designated and empowered to exercise jointly, without the approval, ratification, or other action of the President, the authority vested in the President by the first sentence of section 304 of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1345 (first sentence)) [see 49 U.S.C. 40107(a)] to transfer functions (including, as used in this order, powers, duties, activities, facilities, and parts of functions) as described in that sentence to the extent that the said authority is in respect of transfers from the Department of Defense or any officer or organizational entity thereof to the Administrator of the Federal Aviation Administration of functions relating to flight inspection of air navigation facilities.

SEC. 2. The Administrator and the Secretary shall exercise the authority hereinabove delegated to them only as they shall deem such exercise to be necessary or desirable in the interest of promoting, in respect of either civil or military aviation or both, safe and efficient air navigation and air traffic control.

SEC. 3. (a) To the extent necessitated by transfers of functions effected under the provisions of Section 1 of this order:

(1) Transfers of balances of appropriations available and necessary to finance and discharge the transferred functions shall be made under the authority of Section 202(b) of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c(b) [see 31 U.S.C. 1531]) as affected by the provisions of section 1(k) of Executive Order No. 10530 of May 10, 1954 [set out as a note under section 301 of Title 3, The President].

(2) Provisions for appropriate transfers of records and property shall be made under the authority of the last sentence of Section 304 of the Federal Aviation Act of 1958 [see 49 U.S.C. 40107(a)] as affected by the provisions of Section 1 of Executive Order No. 10797 of December 24, 1958 [set out above].

(b) Neither this order nor the said Executive Order No. 10797 shall be deemed to require or authorize the transfer of any civilian or military personnel from the Department of Defense to the Federal Aviation Administration, under authority of the said Section 304 [see 49 U.S.C. 40107(a)], in connection with transfers of functions effected under the provisions of Section 1 of this order.

SEC. 4. (a) In order to facilitate the orderly and timely accomplishment of the transfers and other arrangements mentioned in Section 3(a) of this order, the Secretary of Defense and the Administrator of the Federal Aviation Administration shall transmit to the Director of the Office of Management and Budget, not less than 30 days prior to the execution by them of any order or other transfer instrument in pursuance of the provisions of Section 1 of this order, all appropriate information in respect to any transfers or other arrangements proposed to be made in connection therewith under the provisions of Section 3 hereof, together with copy of the order or other transfer instrument proposed to be executed by them.

(b) In connection with any particular action or actions under Section 1 of this order, the Director of the Office of Management and Budget may either waive the requirements of Section 4(a), above, or reduce the 30 day period there prescribed.

EX. ORD. NO. 11161. TRANSFER OF FEDERAL AVIATION AGENCY TO DEFENSE DEPARTMENT IN EVENT OF WAR

Ex. Ord. No. 11161, eff. July 7, 1964, 29 F.R. 9317, as amended by Ex. Ord. No. 11382, eff. Nov. 28, 1967, 32 F.R. 16247, provided:

WHEREAS Section 302(e) of the Federal Aviation Act of 1958 [see 49 U.S.C. 40107(b)] provides, in part, that in the event of war the President by Executive order may transfer to the Department of Defense any functions (including powers, duties, activities, facilities, and parts of functions) of the Federal Aviation Administration; and

WHEREAS it appears that the defense of the United States would require the transfer of the Federal Aviation Administration to the Department of Defense in the event of war; and

WHEREAS if any such transfer were to be made it would be essential to the defense of the United States that the transition be accomplished promptly and with maximum ease and effectiveness; and

WHEREAS these objectives require that the relationships that would obtain in the event of such a transfer

as between the Federal Aviation Administration and the Department of Defense be understood in advance by the two agencies concerned and be developed in necessary detail by them in advance of transfer:

NOW, THEREFORE, by virtue of the authority vested in me by Section 302(e) (72 Stat. 746; 49 U.S.C. 1343(c)) [see 49 U.S.C. 40107(b)], and as President of the United States and Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense and the Secretary of Transportation are hereby directed to prepare and develop plans, procedures, policies, programs, and courses of action in anticipation of the probable transfer of the Federal Aviation Administration to the Department of Defense in the event of war. Those plans, policies, procedures, programs, and courses of action shall be prepared and developed in conformity with the following-described standards and conditions—

(A) The Federal Aviation Administration will function as an adjunct of the Department of Defense with the Federal Aviation Administrator being responsible directly to the Secretary of Defense and subject to his authority, direction, and control to the extent deemed by the Secretary to be necessary for the discharge of his responsibilities as Secretary of Defense.

(B) To the extent deemed by the Secretary of Defense to be necessary for the accomplishment of the military mission, he will be empowered to direct the Administrator to place operational elements of the Federal Aviation Administration under the direct operational control of appropriate military commanders.

(C) While functioning as an adjunct of the Department of Defense, the Federal Aviation Administration will remain organizationally intact and the Administrator thereof will retain responsibility for administration of his statutory functions, subject to the authority, direction, and control of the Secretary of Defense to the extent deemed by the Secretary to be necessary for the discharge of his responsibilities as Secretary of Defense.

SEC. 2. In furtherance of the objectives of the foregoing provisions of this order, the Secretary of Defense and the Secretary of Transportation shall, to the extent permitted by law, make such arrangements and take such actions as they deem necessary to assure—

(A) That the functions of the Federal Aviation Administration are performed during any period of national emergency short of war in a manner that will assure that essential national defense requirements will be satisfied during any such period of national emergency.

(B) Consistent with the provisions of paragraphs (A), (B), and (C) of Section 1 of this order, that any transfer of the Federal Aviation Administration to the Department of Defense, in the event of war, will be accomplished smoothly and rapidly and effective operation of the agencies and functions affected by the transfer will be achieved after the transfer.

LYNDON B. JOHNSON.

§ 40108. Training schools

(a) AUTHORITY TO OPERATE.—The Administrator of the Federal Aviation Administration may operate schools to train officers and employees of the Administration to carry out duties, powers, and activities of the Administrator.

(b) ATTENDANCE.—The Administrator may authorize officers and employees of other departments, agencies, or instrumentalities of the United States Government, officers and employees of governments of foreign countries, and individuals from the aeronautics industry to attend those schools. However, if the attendance of any of those officers, employees, or individuals increases the cost of operating the schools, the Administrator may require the payment or transfer of amounts or other consideration to offset the additional cost. The amount received may be credited to the appropriation current when the expenditures are or were paid, the appropriation current when the amount is received, or both.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1104.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40108(a)	49 App.:1354(d) (1st sentence). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85–726, § 313(d), 72 Stat. 753. Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
40108(b)	49 App.:1354(d) (2d–last sentences). 49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in section 313(d) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 753) is retained on authority of 49:106(g). The words ''school or'' are omitted because of 1:1.

In subsection (a), the words ''officers and'' are added for clarity and consistency in the revised title and with other titles of the United States Code. The words ''to carry out duties, powers, and activities of the Administrator'' are substituted for ''in those subjects necessary for the proper performance of all authorized functions of the Administration'' for clarity and consistency in the revised title.

In subsection (b), the words ''officers and employees'' are substituted for ''personnel'', the words ''departments, agencies, or instrumentalities of the United States Government'' are substituted for ''governmental'', and the words ''governments of foreign countries'' are substituted for ''foreign governments'', for consistency in the revised title and with other titles of the Code. The words ''courses given in'', ''sufficient'', and ''appropriate'' are omitted as surplus. The text of 49 App.:1354(d) (3d sentence) is omitted as unnecessary because chapter 41 of title 5, United States Code, applies to all training of employees. The words ''or both'' are substituted for ''(3) in part as provided under clause (1) and in part as provided under clause (2)'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 40109. Authority to exempt

(a) AIR CARRIERS AND FOREIGN AIR CARRIERS NOT ENGAGED DIRECTLY IN OPERATING AIRCRAFT.—(1) The Secretary of Transportation may exempt from subpart II of this part—

(A) an air carrier not engaged directly in operating aircraft in air transportation; or

(B) a foreign air carrier not engaged directly in operating aircraft in foreign air transportation.

(2) The exemption is effective to the extent and for periods that the Secretary decides are in the public interest.

(b) SAFETY REGULATION.—The Administrator of the Federal Aviation Administration may grant an exemption from a regulation prescribed in carrying out sections 40103(b)(1) and (2), 40119, 44901, 44903, 44906, and 44935–44937 of this title when the Administrator decides the exemption is in the public interest.

(c) OTHER ECONOMIC REGULATION.—Except as provided in this section, the Secretary may ex-

empt to the extent the Secretary considers necessary a person or class of persons from a provision of chapter 411, chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714), chapter 419, subchapter II of chapter 421, and sections 44909 and 46301(b) of this title, or a regulation or term prescribed under any of those provisions, when the Secretary decides that the exemption is consistent with the public interest.

(d) LABOR REQUIREMENTS.—The Secretary may not exempt an air carrier from section 42112 of this title. However, the Secretary may exempt from section 42112(b)(1) and (2) an air carrier not providing scheduled air transportation, and the operations conducted during daylight hours by an air carrier providing scheduled air transportation, when the Secretary decides that—

(1) because of the limited extent of, or unusual circumstances affecting, the operation of the air carrier, the enforcement of section 42112(b)(1) and (2) of this title is or would be an unreasonable burden on the air carrier that would obstruct its development and prevent it from beginning or continuing operations; and

(2) the exemption would not affect adversely the public interest.

(e) MAXIMUM FLYING HOURS.—The Secretary may not exempt an air carrier under this section from a provision referred to in subsection (c) of this section, or a regulation or term prescribed under any of those provisions, that sets maximum flying hours for pilots or copilots.

(f) SMALLER AIRCRAFT.—(1) An air carrier is exempt from section 41101(a)(1) of this title, and the Secretary may exempt an air carrier from another provision of subpart II of this part, if the air carrier—

(A)(i) provides passenger transportation only with aircraft having a maximum capacity of 55 passengers; or

(ii) provides the transportation of cargo only with aircraft having a maximum payload of less than 18,000 pounds; and

(B) complies with liability insurance requirements and other regulations the Secretary prescribes.

(2) The Secretary may increase the passenger or payload capacities when the public interest requires.

(3)(A) An exemption under this subsection applies to an air carrier providing air transportation between 2 places in Alaska, or between Alaska and Canada, only if the carrier is authorized by Alaska to provide the transportation.

(B) The Secretary may limit the number or location of places that may be served by an air carrier providing transportation only in Alaska under an exemption from section 41101(a)(1) of this title, or the frequency with which the transportation may be provided, only when the Secretary decides that providing the transportation substantially impairs the ability of an air carrier holding a certificate issued by the Secretary to provide its authorized transportation, including the minimum transportation requirement for Alaska specified under section 41732(b)(1)(B) of this title.

(g) EMERGENCY AIR TRANSPORTATION BY FOREIGN AIR CARRIERS.—(1) To the extent that the Secretary decides an exemption is in the public interest, the Secretary may exempt by order a foreign air carrier from the requirements and limitations of this part for not more than 30 days to allow the foreign air carrier to carry passengers or cargo in interstate air transportation in certain markets if the Secretary finds that—

(A) because of an emergency created by unusual circumstances not arising in the normal course of business, air carriers holding certificates under section 41102 of this title cannot accommodate traffic in those markets;

(B) all possible efforts have been made to accommodate the traffic by using the resources of the air carriers, including the use of—

(i) foreign aircraft, or sections of foreign aircraft, under lease or charter to the air carriers; and

(ii) the air carriers' reservations systems to the extent practicable;

(C) the exemption is necessary to avoid unreasonable hardship for the traffic in the markets that cannot be accommodated by the air carriers; and

(D) granting the exemption will not result in an unreasonable advantage to any party in a labor dispute where the inability to accommodate traffic in a market is a result of the dispute.

(2) When the Secretary grants an exemption to a foreign air carrier under this subsection, the Secretary shall—

(A) ensure that air transportation that the foreign air carrier provides under the exemption is made available on reasonable terms;

(B) monitor continuously the passenger load factor of air carriers in the market that hold certificates under section 41102 of this title; and

(C) review the exemption at least every 30 days to ensure that the unusual circumstances that established the need for the exemption still exist.

(3) The Secretary may renew an exemption (including renewals) under this subsection for not more than 30 days. An exemption may continue for not more than 5 days after the unusual circumstances that established the need for the exemption cease.

(h) NOTICE AND OPPORTUNITY FOR HEARING.—The Secretary may act under subsections (d) and (f)(3)(B) of this section only after giving the air carrier notice and an opportunity for a hearing.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1104; Pub. L. 104–287, § 5(65), Oct. 11, 1996, 110 Stat. 3395.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40109(a)	49 App.:1301(3) (proviso).	Aug. 23, 1958, Pub. L. 85–726, §§ 101(3) (proviso), 307(e), 416(b)(2), 72 Stat. 737, 750, 771.
	49 App.:1386(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 416(b)(3)–(6); added Oct. 24, 1978, Pub. L. 95–504, §§ 31(b), 32, 92 Stat. 1732.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
40109(b)	49 App.:1348(e).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
40109(c)	49 App.:1386(b)(1).	Aug. 23, 1958, Pub. L. 85–726, §416(b)(1), 72 Stat. 771; restated Oct. 24, 1978, Pub. L. 95–504, §31(a), 92 Stat. 1731.
	49 App.:1551(b)(1)(E).	
40109(d)	49 App.:1386(b)(2) (less words between 6th and 7th commas, proviso).	
	49 App.:1551(b)(1)(E).	
40109(e)	49 App.:1386(b)(2) (proviso).	
	49 App.:1551(b)(1)(E).	
40109(f)	49 App.:1386(b)(4), (5), (6) (less words between 5th and 6th commas).	
	49 App.:1551(b)(1)(E).	
40109(g)	49 App.:1386(b)(7).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §416(b)(7); added Feb. 15, 1980, Pub. L. 96–192, §13, 94 Stat. 39.
	49 App.:1551(b)(1)(E).	
40109(h)	49 App.:1386(b)(2) (words between 6th and 7th commas), (6) (words between 5th and 6th commas).	
	49 App.:1551(b)(1)(E).	

In this section, the words ''requirements of'', ''term'', and ''or limitation'' are omitted as surplus. The word ''rule'' is omitted as being synonymous with ''regulation''. The word ''unreasonable'' is substituted for ''undue'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(1), before clause (A), the words ''by order'' are omitted as unnecessary because of 5:ch. 5, subch. II. The word ''exempt'' is substituted for ''relieve'' for consistency in this section.

In subsection (a)(2), the words ''that the Secretary decides'' are added for clarity.

In subsections (b), (c), and (f)(1)(B), the words ''from time to time'' are omitted as unnecessary.

In subsection (b), the word ''Administrator'' in section 307(e) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 750) is retained on authority of 49:106(g).

In subsection (d), before clause (1), the words ''to the extent'' are omitted as surplus.

In subsection (f)(1), before clause (A), the words ''Subject to paragraph (5) of this subsection'' and ''in air transportation'' are omitted as surplus. The words ''the Secretary may exempt'' are substituted for ''as may be prescribed in regulations promulgated by the Board'' for clarity and to eliminate unnecessary words. In clause (A)(ii), the word ''capacity'' is omitted as surplus. In clause (B), the word ''reasonable'' is omitted as surplus. The word ''prescribes'' is substituted for ''adopt'' for consistency in the revised title and with other titles of the Code. The words ''in the public interest'' are omitted as surplus.

In subsection (f)(2), the words ''by regulation'' are omitted as surplus. The word ''payload'' is substituted for ''property'' for consistency in this subsection. The words ''specified in this paragraph'' are omitted as surplus.

In subsection (f)(3), the words ''the State of'' are omitted as surplus.

In subsection (f)(3)(A), the words ''under this subsection'' are substituted for ''from section 1371 of this title or any other requirement of this chapter'', the words ''2 places'' are substituted for ''points both of which are'', and the word ''between'' is substituted for ''one of which is in . . . and the other in'', to eliminate unnecessary words.

In subsection (f)(3)(B), the word ''only'' is added for clarity. The words ''promulgated by the Board'', ''by such air carrier to points within such State'', and ''but not limited to'' are omitted as surplus. The word ''Alaska'' is substituted for ''such State'' for clarity. The cross-reference is to section 41732(b)(1)(B) to correct an error in the source provisions. The cross-reference in 49 App.:1386(b)(6) to 49 App.:1389(c)(2) should have been to 49 App.:1389(f)(2). This error was not corrected when 49 App.:1389 was restated by section 202(b) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Public Law 100–223, 101 Stat. 1508). The comparable provision is 49 App.:1389(k)(1)(A)(ii), restated as section 41732(b)(1)(B).

In subsection (g), the word ''exemption'' is substituted for ''authorization'' and ''authority'' for clarity and consistency.

In subsection (g)(1), before clause (A), the words ''required'', ''a period'', and ''to the extent necessary'' are omitted as surplus. The word ''mail'' is omitted as being included in ''cargo''. In clause (B), before subclause (i), the words ''for example'' are omitted as surplus.

In subsection (g)(3), the words ''a period'' are omitted as surplus.

In subsection (h), the words ''The Secretary may act under subsections (d) and (f)(3)(B) of this section'' are added because of the restatement. The word ''notice'' does not appear in 49 App.:1386(b)(6) (words between 5th and 6th commas) but is made applicable to both of the restated source provisions for consistency with subchapter II of chapter 5 of title 5, United States Code. The words ''opportunity for a'' are added for consistency in the revised title.

PUB. L. 104–287

This amends 49:40109(c) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1105), to include in the cross-reference sections enacted after the cutoff date for the codification of title 49 as enacted by section 1 of the Act (Public Law 103–272, 108 Stat. 745), and to make it easier to include future sections in the cross-reference by restating it in terms of chapters.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–287, §5(65)(B), substituted ''sections 44909 and 46301(b)'' for ''section 46301(b)''.

Pub. L. 104–287, §5(65)(A), substituted ''chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714),'' for ''sections 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, and 41731–41742,''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

AUTHORITY TO GRANT EXEMPTIONS TO GOVERNMENT AIRCRAFT

Pub. L. 103–411, §3(b), Oct. 25, 1994, 108 Stat. 4237, provided that:

''(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may grant an exemption to any unit of Federal, State, or local government from any requirement of part A of subtitle VII of title 49, United States Code, that would otherwise be applicable to current or future aircraft of such unit of government as a result of the amendment made by subsection (a) of this section [amending section 40102 of this title].

''(2) REQUIREMENTS.—The Administrator may grant an exemption under paragraph (1) only if—

''(A) the Administrator finds that granting the exemption is necessary to prevent an undue economic burden on the unit of government; and

''(B) the Administrator certifies that the aviation safety program of the unit of government is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 41505, 41703, 41710, 41733, 41738 of this title; title 39 section 5402.

§ 40110. General procurement authority

(a) GENERAL.—In carrying out this part, the Administrator of the Federal Aviation Administration—

(1) to the extent that amounts are available for obligation, may acquire services or, by condemnation or otherwise, an interest in property, including an interest in airspace immediately adjacent to and needed for airports and other air navigation facilities owned by the United States Government and operated by the Administrator;

(2) may dispose of an interest in property for adequate compensation; and

(3) may construct and improve laboratories and other test facilities.

(b) PURCHASE OF HOUSING UNITS.—

(1) AUTHORITY.—In carrying out this part, the Administrator may purchase a housing unit (including a condominium or a housing unit in a building owned by a cooperative) that is located outside the contiguous United States if the cost of the unit is $300,000 or less.

(2) ADJUSTMENTS FOR INFLATION.—For fiscal years beginning after September 30, 1997, the Administrator may adjust the dollar amount specified in paragraph (1) to take into account increases in local housing costs.

(3) CONTINUING OBLIGATIONS.—Notwithstanding section 1341 of title 31, the Administrator may purchase a housing unit under paragraph (1) even if there is an obligation thereafter to pay necessary and reasonable fees duly assessed upon such unit, including fees related to operation, maintenance, taxes, and insurance.

(4) CERTIFICATION TO CONGRESS.—The Administrator may purchase a housing unit under paragraph (1) only if, at least 30 days before completing the purchase, the Administrator transmits to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(A) a description of the housing unit and its price;

(B) a certification that the price does not exceed the median price of housing units in the area; and

(C) a certification that purchasing the housing unit is the most cost-beneficial means of providing necessary accommodations in carrying out this part.

(5) PAYMENT OF FEES.—The Administrator may pay, when due, fees resulting from the purchase of a housing unit under this subsection from any amounts made available to the Administrator.

(c) DUTIES AND POWERS.—When carrying out subsection (a) of this section, the Administrator of the Federal Aviation Administration—

(1) is the senior procurement executive referred to in section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) for approving the justification for using procedures other than competitive procedures, as required under section 303(f)(1)(B)(iii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(iii)); and

(2) may—

(A) notwithstanding section 1341(a)(1) of title 31, lease an interest in property for not more than 20 years;

(B) consider the reasonable probable future use of the underlying land in making an award for a condemnation of an interest in airspace;

(C) construct, or acquire an interest in, a public building (as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612)) only under a delegation of authority from the Administrator of General Services;

(D) use procedures other than competitive procedures, as provided under section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c));

(E) use procedures other than competitive procedures only when the property or services needed by the Administrator of the Federal Aviation Administration are available from only one responsible source or only from a limited number of responsible sources and no other type of property or services will satisfy the needs of the Administrator; and

(F) dispose of property under subsection (a)(2) of this section, except for airport and airway property and technical equipment used for the special purposes of the Administration, only under title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1106; Pub. L. 103–429, § 6(48), (80), Oct. 31, 1994, 108 Stat. 4384, 4388; Pub. L. 104–264, title XII, § 1201, Oct. 9, 1996, 110 Stat. 3279.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40110(a)	49 App.:1344(a)(1) (less term of lease), (2) (words before 1st semicolon), (3).	Aug. 23, 1958, Pub. L. 85–726, § 303(a)–(d), 72 Stat. 747; May 21, 1970, Pub. L. 91–258, § 51(a)(1), 84 Stat. 234; July 12, 1976, Pub. L. 94–353, § 16, 90 Stat. 882; Oct. 19, 1980, Pub. L. 96–470, § 112(e), 94 Stat. 2240; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444; restated Nov. 5, 1990, Pub. L. 101–508, § 9118(a), 104 Stat. 1388–365.
40110(b)(1) ..	49 App.:1344(d).	
40110(b)(2)(A).	49 App.:1344(a)(1) (related to term of lease).	
40110(b)(2)(B).	49 App.:1344(b)(1).	
40110(b)(2)(C).	49 App.:1344(b)(2).	
40110(b)(2)(D).	49 App.:1344(c).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40110(b)(2)(E).	49 App.:1344(g).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 747, §303(g); added Oct. 31, 1992, Pub. L. 102–581, §201(a), 106 Stat. 4890.
40110(b)(2)(F).	49 App.:1344(a)(2) (words after 1st semicolon).	

In this section, the word ''Administrator'' in section 303(a)–(d) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 747) is retained on authority of 49:106(g).

In subsection (a), before clause (1), the words ''In carrying out this part'' are added for clarity. The words ''on behalf of the United States . . . where appropriate'' are omitted as surplus. In clause (1), the words ''made by the Congress'', ''by purchase, condemnation . . . or otherwise'', and ''easements through or other'' are omitted as surplus. In clause (2), the words ''by sale, lease, or otherwise'' and ''real or personal'' are omitted as surplus. In clause (3), the word ''renovate'' is omitted as surplus. The words ''and to purchase or otherwise acquire real property required therefor'' are omitted as surplus because of the authority of the Administrator to acquire real property under clause (1) of this subsection.

In subsection (b)(1), the words ''procedures other than competitive procedures'' are substituted for ''noncompetitive procedures'' for consistency with subsection (b)(2)(D) of this section and 41:253(f).

In subsection (b)(2)(B), the text of 49 App.:1344(b)(1) (words before semicolon) and the words ''easements through or other'' are omitted as surplus.

In subsection (b)(2)(C), the words ''by purchase, condemnation, or lease'' are omitted as surplus.

Subsection (b)(2)(E) is substituted for 49 App.:1344(g) to eliminate the cross-references to other laws and for clarity and is based on the text of 10:2304(c)(1).

PUB. L. 103–429

This amends 49:40110(a) to clarify the restatement of 49 App.:1344(a)(1)–(3) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1106).

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (c)(2)(F), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Title II of the Act is classified principally to subchapter II (§481 et seq.) of chapter 10 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

AMENDMENTS

1996—Subsecs. (b), (c). Pub. L. 104–264 added subsec. (b) and redesignated former subsec. (b) as (c).

1994—Subsec. (a). Pub. L. 103–429, §6(48), in introductory provisions, struck out ''may'' after ''Administration'', in par. (1), struck out ''acquire,'' before ''to the extent'' and substituted ''may acquire services or, by condemnation or otherwise,'' for ''services or'', and in pars. (2) and (3), inserted ''may'' after par. designation.

Subsec. (b)(2)(A). Pub. L. 103–429, §6(80), inserted ''notwithstanding section 1341(a)(1) of title 31,'' before ''lease''.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

ASSESSMENT OF ACQUISITION MANAGEMENT SYSTEM

Section 251 of Pub. L. 104–264 provided that: ''Not later than April 1, 1999, the Administrator [of the Federal Aviation Administration] shall employ outside experts to provide an independent evaluation of the effectiveness of the Administration's [Federal Aviation Administration] acquisition management system within 3 months after such date. The Administrator shall transmit a copy of the evaluation to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.''

Pub. L. 104–205, title III, §351, Sept. 30, 1996, 110 Stat. 2979, provided that: ''Not later than December 31, 1997, the Administrator of the Federal Aviation Administration shall—

''(a) take such action as may be necessary to provide for an independent assessment of the acquisition management system of the Federal Aviation Administration that includes a review of any efforts of the Administrator in promoting and encouraging the use of full and open competition as the preferred method of procurement with respect to any contract that involves an amount greater than $50,000,000; and

''(b) submit to the Congress a report on the findings of that independent assessment: *Provided*, That for purposes of this section, the term 'full and open competition' has the meaning provided that term in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).''

ACQUISITION MANAGEMENT SYSTEM FOR FEDERAL AVIATION ADMINISTRATION

Pub. L. 104–50, title III, §348, Nov. 15, 1995, 109 Stat. 460, provided that:

''(a) In consultation with such non-governmental experts in acquisition management systems as he may employ, and notwithstanding provisions of Federal acquisition law, the Administrator of the Federal Aviation Administration shall develop and implement, not later than January 1, 1996, an acquisition management system for the Federal Aviation Administration that addresses the unique needs of the agency and, at a minimum, provides for more timely and cost-effective acquisitions of equipment and materials.

''(b) The following provisions of Federal acquisition law shall not apply to the new acquisition management system developed and implemented pursuant to subsection (a):

''(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252–266).

''(2) The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

''(3) The Federal Acquisition Streamlining Act of 1994 (Public Law 103–355) [see Tables for classification].

''(4) The Small Business Act (15 U.S.C. 631 et seq.), except that all reasonable opportunities to be awarded contracts shall be provided to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

''(5) The Competition in Contracting Act [probably means Competition in Contracting Act of 1984, Pub. L. 98–369, div. B, title VII, July 18, 1984, 98 Stat. 1175, see Tables for classification].

''(6) Subchapter V of chapter 35 of title 31, relating to the procurement protest system.

''(7) The Brooks Automatic Data Processing Act ([former] 40 U.S.C. 759).

''(8) The Federal Acquisition Regulation and any laws not listed in (a) through (e) of this section providing authority to promulgate regulations in the Federal Acquisition Regulation.

''(c) This section shall take effect on April 1, 1996.''

ALTERNATIVE PROCUREMENT AND ACQUISITION PILOT PROGRAM

Pub. L. 103–355, title V, §5063, Oct. 13, 1994, 108 Stat. 3356, provided that:

''(a) AUTHORITY.—The Secretary of Transportation may conduct a test of alternative and innovative procurement procedures in carrying out acquisitions for one of the modernization programs under the Airway Capital Investment Plan prepared pursuant to section 44501(b) of title 49, United States Code. In conducting such test, the Secretary shall consult with the Administrator for Federal Procurement Policy.

''(b) PILOT PROGRAM IMPLEMENTATION.—(1) The Secretary of Transportation should prescribe policies and procedures for the interaction of the program manager and the end user executive responsible for the requirement for the equipment acquired. Such policies and procedures should include provisions for enabling the end user executive to participate in acceptance testing.

''(2) Not later than 45 days after the date of enactment of this Act [Oct. 13, 1994], the Secretary of Transportation shall identify for the pilot program quantitative measures and goals for reducing acquisition management costs.

''(3) The Secretary of Transportation shall establish for the pilot program a review process that provides senior acquisition officials with reports on the minimum necessary data items required to ensure the appropriate expenditure of funds appropriated for the program and that—

''(A) contain essential information on program results at appropriate intervals, including the criteria to be used in measuring the success of the program; and

''(B) reduce data requirements from the current program review reporting requirements.

''(c) SPECIAL AUTHORITIES.—The authority provided by subsection (a) shall include authority for the Secretary of Transportation—

''(1) to apply any amendment or repeal of a provision of law made in this Act [see Short Title of 1994 Amendment note set out under section 251 of Title 41, Public Contracts] to the pilot program before the effective date of such amendment or repeal; and

''(2) to apply to a procurement of items other than commercial items under such program—

''(A) any authority provided in this Act (or in an amendment made by a provision of this Act) to waive a provision of law in the case of commercial items, and

''(B) any exception applicable under this Act (or an amendment made by a provision of this Act) in the case of commercial items,

before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of items other than commercial items.

''(d) APPLICABILITY.—Subsection (c) applies with respect to—

''(1) a contract that is awarded or modified after the date occurring 45 days after the date of the enactment of this Act [Oct. 13, 1994]; and

''(2) a contract that is awarded before such date and is to be performed (or may be performed), in whole or in part, after such date.

''(e) PROCEDURES AUTHORIZED.—The test conducted under this section may include any of the following procedures:

''(1) Restriction of competitions to sources determined capable in a precompetition screening process, provided that the screening process affords all interested sources a fair opportunity to be considered.

''(2) Restriction of competitions to sources of preevaluated products, provided that the preevaluation process affords all interested sources a fair opportunity to be considered.

''(3) Alternative notice and publication requirements.

''(4) A process in which—

''(A) the competitive process is initiated by publication in the Commerce Business Daily, or by dissemination through FACNET, of a notice that—

''(i) contains a synopsis of the functional and performance needs of the executive agency conducting the test, and, for purposes of guidance only, other specifications; and

''(ii) invites any interested source to submit information or samples showing the suitability of its product for meeting those needs, together with a price quotation, or, if appropriate, showing the source's technical capability, past performance, product supportability, or other qualifications (including, as appropriate, information regarding rates and other cost-related factors);

''(B) contracting officials develop a request for proposals (including appropriate specifications and evaluation criteria) after reviewing the submissions of interested sources and, if the officials determine necessary, after consultation with those sources; and

''(C) a contract is awarded after a streamlined competition that is limited to all sources that timely provided product information in response to the notice or, if appropriate, to those sources determined most capable based on the qualification-based factors included in an invitation to submit information pursuant to subparagraph (A).

''(f) WAIVER OF PROCUREMENT REGULATIONS.—(1) In conducting the test under this section, the Secretary of Transportation, with the approval of the Administrator for Federal Procurement Policy, may waive—

''(A) any provision of the Federal Acquisition Regulation that is not required by statute; and

''(B) any provision of the Federal Acquisition Regulation that is required by a provision of law described in paragraph (2), the waiver of which the Administrator determines in writing to be necessary to test procedures authorized by subsection (e).

''(2) The provisions of law referred to in paragraph (1) are as follows:

''(A) Subsections (e), (f), and (g) of section 8 of the Small Business Act (15 U.S.C. 637).

''(B) The following provisions of the Federal Property and Administrative Services Act of 1949:

''(i) Section 303 (41 U.S.C. 253).

''(ii) Section 303A (41 U.S.C. 253a).

''(iii) Section 303B (41 U.S.C. 253b).

''(iv) Section 303C (41 U.S.C. 253c).

''(C) The following provisions of the Office of Federal Procurement Policy Act:

''(i) Section 4(6) (41 U.S.C. 403(6)).

''(ii) Section 18 (41 U.S.C. 416).

''(g) DEFINITION.—In this section, the term 'commercial item' has the meaning provided that term in section 4(12) of the Office of Federal Procurement Policy Act [41 U.S.C. 403(12)].

''(h) EXPIRATION OF AUTHORITY.—The authority to conduct the test under subsection (a) and to award contracts under such test shall expire 4 years after the date of the enactment of this Act. Contracts entered into before such authority expires shall remain in effect, notwithstanding the expiration of the authority to conduct the test under this section.

''(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as authorizing the appropriation or obligation of funds for the test conducted pursuant to subsection (a).''

§ 40111. Multiyear procurement contracts for services and related items

(a) GENERAL AUTHORITY.—Notwithstanding section 1341(a)(1)(B) of title 31, the Administrator of the Federal Aviation Administration may make a contract of not more than 5 years for the following types of services and items of supply related to those services for which

amounts otherwise would be available for obligation only in the fiscal year for which appropriated:

(1) operation, maintenance, and support of facilities and installations.

(2) operation, maintenance, and modification of aircraft, vehicles, and other highly complex equipment.

(3) specialized training requiring high quality instructor skills, including training of pilots and aircrew members and foreign language training.

(4) base services, including ground maintenance, aircraft refueling, bus transportation, and refuse collection and disposal.

(b) REQUIRED FINDINGS.—The Administrator may make a contract under this section only if the Administrator finds that—

(1) there will be a continuing requirement for the service consistent with current plans for the proposed contract period;

(2) providing the service will require a substantial initial investment in plant or equipment, or will incur a substantial contingent liability for assembling, training, or transporting a specialized workforce; and

(3) the contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operation.

(c) CONSIDERATIONS.—When making a contract under this section, the Administrator shall be guided by the following:

(1) The part of the cost of a plant or equipment amortized as a cost of contract performance may not be more than the ratio between the period of contract performance and the anticipated useful commercial life (instead of physical life) of the plant or equipment, considering the location and specialized nature of the plant or equipment, obsolescence, and other similar factors.

(2) The Administrator shall consider the desirability of—

(A) obtaining an option to renew the contract for a reasonable period of not more than 3 years, at a price that does not include charges for nonrecurring costs already amortized; and

(B) reserving in the Administrator the right, on payment of the unamortized part of the cost of the plant or equipment, to take title to the plant or equipment under appropriate circumstances.

(d) ENDING CONTRACTS.—A contract made under this section shall be ended if amounts are not made available to continue the contract into a subsequent fiscal year. The cost of ending the contract may be paid from—

(1) an appropriation originally available for carrying out the contract;

(2) an appropriation currently available for procuring the type of service concerned and not otherwise obligated; or

(3) amounts appropriated for payments to end the contract.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1107.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40111(a)	49 App.:1344(e)(1).	Aug. 23, 1958, Pub. L. 85–726, §303(e), 72 Stat. 747; May 21, 1970, Pub. L. 91–258, §51(a)(1), 84 Stat. 234; July 12, 1976, Pub. L. 94–353, §16, 90 Stat. 882; Oct. 19, 1980, Pub. L. 96–470, §112(e), 94 Stat. 2240; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444; restated Nov. 5, 1990, Pub. L. 101–508, §9118(a), 104 Stat. 1388–366.
40111(b)	49 App.:1344(e)(2).	
40111(c)	49 App.:1344(e)(3).	
40111(d)	49 App.:1344(e)(4).	

In this section, the word ''Administrator'' in section 303(e) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 747) is retained on authority of 49:106(g).

In subsection (a), before clause (1), the words ''periods of'' are omitted as surplus. In clause (3), the words ''training of'' are added for clarity. In clause (4), the word ''aircraft'' is substituted for ''in-plane'' for clarity.

In subsection (c)(2)(A), the words ''plant, equipment, and other'' are omitted as surplus.

In subsection (d), the words ''canceled or'' and ''cancellation or'' are omitted as being included in ''ended'' and ''ending'', respectively.

§ 40112. Multiyear procurement contracts for property

(a) GENERAL AUTHORITY.—Notwithstanding section 1341(a)(1)(B) of title 31 and to the extent that amounts otherwise are available for obligation, the Administrator of the Federal Aviation Administration may make a contract of more than one but not more than 5 fiscal years to purchase property, except a contract to construct, alter, or make a major repair or improvement to real property.

(b) REQUIRED FINDINGS.—The Administrator may make a contract under this section if the Administrator finds that—

(1) the contract will promote the safety or efficiency of the national airspace system and will result in reduced total contract costs;

(2) the minimum need for the property to be purchased is expected to remain substantially unchanged during the proposed contract period in terms of production rate, procurement rate, and total quantities;

(3) there is a reasonable expectation that throughout the proposed contract period the Administrator will request appropriations for the contract at the level required to avoid cancellation;

(4) there is a stable design for the property to be acquired and the technical risks associated with the property are not excessive; and

(5) the estimates of the contract costs and the anticipated savings from the contract are realistic.

(c) REGULATIONS.—The Administrator shall prescribe regulations for acquiring property under this section to promote the use of contracts under this section in a way that will allow the most efficient use of those contracts. The regulations may provide for a cancellation provision in the contract to the extent the provision is necessary and in the best interest of the United States. The provision may include

consideration of recurring and nonrecurring costs of the contractor associated with producing the item to be delivered under the contract. The regulations shall provide that, to the extent practicable—

(1) to broaden the aviation industrial base—

(A) a contract under this section shall be used to seek, retain, and promote the use under that contract of subcontractors, vendors, or suppliers; and

(B) on accrual of a payment or other benefit accruing on a contract under this section to a subcontractor, vendor, or supplier participating in the contract, the payment or benefit shall be delivered in the most expeditious way practicable; and

(2) this section and regulations prescribed under this section may not be carried out in a way that precludes or curtails the existing ability of the Administrator to provide for—

(A) competition in producing items to be delivered under a contract under this section; or

(B) ending a prime contract when performance is deficient with respect to cost, quality, or schedule.

(d) CONTRACT PROVISIONS.—(1) A contract under this section may—

(A) be used for the advance procurement of components, parts, and material necessary to manufacture equipment to be used in the national airspace system;

(B) provide that performance under the contract after the first year is subject to amounts being appropriated; and

(C) contain a negotiated priced option for varying the number of end items to be procured over the period of the contract.

(2) If feasible and practicable, an advance procurement contract may be made to achieve economic-lot purchases and more efficient production rates.

(e) CANCELLATION PAYMENT AND NOTICE OF CANCELLATION CEILING.—(1) If a contract under this section provides that performance is subject to an appropriation being made, it also may provide for a cancellation payment to be made to the contractor if the appropriation is not made.

(2) Before awarding a contract under this section containing a cancellation ceiling of more than $100,000,000, the Administrator shall give written notice of the proposed contract and cancellation ceiling to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The contract may not be awarded until the end of the 30-day period beginning on the date of the notice.

(f) ENDING CONTRACTS.—A contract made under this section shall be ended if amounts are not made available to continue the contract into a subsequent fiscal year. The cost of ending the contract may be paid from—

(1) an appropriation originally available for carrying out the contract;

(2) an appropriation currently available for procuring the type of property concerned and not otherwise obligated; or

(3) amounts appropriated for payments to end the contract.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1108; Pub. L. 104–106, div. E, title LVI, § 5606, Feb. 10, 1996, 110 Stat. 700; Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40112(a)	49 App.:1344(f)(1) (words before 4th comma), (6), (7) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 303(f), 72 Stat. 747; May 21, 1970, Pub. L. 91–258, § 51(a)(1), 84 Stat. 234; July 12, 1976, Pub. L. 94–353, § 16, 90 Stat. 882; Oct. 19, 1980, Pub. L. 96–470, § 112(e), 94 Stat. 2240; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444; restated Nov. 5, 1990, Pub. L. 101–508, § 9118(a), 104 Stat. 1388–367.
40112(b)	49 App.:1344(f)(1) (words after 4th comma).	
40112(c)	49 App.:1344(f)(2).	
40112(d)(1)(A).	49 App.:1344(f)(4) (words before 3d comma).	
40112(d)(1)(B).	49 App.:1344(f)(7) (last sentence words before ''and (if'').	
40112(d)(1)(C).	49 App.:1344(f)(8).	
40112(d)(2) ..	49 App.:1344(f)(4) (words after 3d comma).	
40112(e)(1) ..	49 App.:1344(f)(7) (last sentence words after ''of funds'').	
40112(e)(2) ..	49 App.:1344(f)(3).	
40112(f)	49 App.:1344(f)(5).	

In this section, the word ''Administrator'' in section 303(f) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 747) is retained on authority of 49:106(g).

In subsection (a), the reference in 49 App.:1344(f)(7) to a contract for the purchase of services is omitted as surplus because 49 App.:1344(f)(1) states that the subsection is concerned only with contracts for the purchase of property.

In subsection (b)(5), the word ''savings'' is substituted for ''cost avoidance'' for clarity.

In subsection (c), before clause (1), the word ''both'' is omitted as surplus. In clause (1)(A), the words ''in such a manner as'' and ''companies that are'' are omitted as surplus. In clause (1)(B), the words ''accruing on'' are substituted for ''under'' for clarity. The words ''subcontractor'' and ''contract'' are substituted for ''subcontract'' and ''contractor'', respectively, to correct errors in the source provisions being restated.

In subsection (d)(1)(B), the words ''after the first year'' are substituted for ''during the second and subsequent years of the contract'' to eliminate unnecessary words.

In subsection (e)(2), the words ''a clause setting forth'' are omitted as surplus.

In subsection (f), the words ''canceled or'' and ''cancellation or'' are omitted as being included in ''ended'' and ''ending'', respectively.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–106 struck out ''or a contract to purchase property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies'' after ''improvement to real property''.

Subsec. (e)(2). Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104–106, set out as an Effective Date note under section 1401 of Title 40, Public Buildings, Property, and Works.

§ 40113. Administrative

(a) GENERAL AUTHORITY.—The Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may take action the Secretary or Administrator, as appropriate, considers necessary to carry out this part, including conducting investigations, prescribing regulations, standards, and procedures, and issuing orders.

(b) HAZARDOUS MATERIAL.—In carrying out this part, the Secretary has the same authority to regulate the transportation of hazardous material by air that the Secretary has under section 5103 of this title. However, this subsection does not prohibit or regulate the transportation of a firearm (as defined in section 232 of title 18) or ammunition for a firearm, when transported by an individual for personal use.

(c) GOVERNMENTAL ASSISTANCE.—The Secretary (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may use the assistance of the Administrator of the National Aeronautics and Space Administration and any research or technical department, agency, or instrumentality of the United States Government on matters related to aircraft fuel and oil, and to the design, material, workmanship, construction, performance, maintenance, and operation of aircraft, aircraft engines, propellers, appliances, and air navigation facilities. Each department, agency, and instrumentality may conduct scientific and technical research, investigations, and tests necessary to assist the Secretary or Administrator of the Federal Aviation Administration in carrying out this part. This part does not authorize duplicating laboratory research activities of a department, agency, or instrumentality.

(d) INDEMNIFICATION.—The Administrator of the Federal Aviation Administration may indemnify an officer or employee of the Administration against a claim or judgment arising out of an act that the Administrator decides was committed within the scope of the official duties of the officer or employee.

(e) ASSISTANCE TO FOREIGN AVIATION AUTHORITIES.—

(1) SAFETY-RELATED TRAINING AND OPERATIONAL SERVICES.—The Administrator may provide safety-related training and operational services to foreign aviation authorities with or without reimbursement, if the Administrator determines that providing such services promotes aviation safety. To the extent practicable, air travel reimbursed under this subsection shall be conducted on United States air carriers.

(2) REIMBURSEMENT SOUGHT.—The Administrator shall actively seek reimbursement for services provided under this subsection from foreign aviation authorities capable of providing such reimbursement.

(3) CREDITING APPROPRIATIONS.—Funds received by the Administrator pursuant to this section shall be credited to the appropriation from which the expenses were incurred in providing such services.

(4) REPORTING.—Not later than December 31, 1995, and annually thereafter, the Administrator shall transmit to Congress a list of the foreign aviation authorities to which the Administrator provided services under this subsection in the preceding fiscal year. Such list shall specify the dollar value of such services and any reimbursement received for such services.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1110; Pub. L. 103–305, title II, § 202, Aug. 23, 1994, 108 Stat. 1582.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40113(a)	49 App.:1324(a).	Aug. 23, 1958, Pub. L. 85–726, §§ 204(a), 313(a), 72 Stat. 743, 752.
	49 App.:1354(a).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
40113(b)	49 App.:1472(h)(1), (3).	Aug. 23, 1958, Pub. L. 85–726, § 902(h)(1), (3), 72 Stat. 785; restated Jan. 3, 1975, Pub. L. 93–633, § 113(c), 88 Stat. 2162, 2163.
40113(c)	49 App.:1505.	Aug. 23, 1958, Pub. L. 85–726, § 1105, 72 Stat. 798; Oct. 15, 1962, Pub. L. 87–810, § 3, 76 Stat. 921.
	49 App.:1655(c)(1).	
40113(d)	49 App.:1354(e).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 313(e); added Dec. 30, 1987, Pub. L. 100–223, § 205, 101 Stat. 1521.

In subsections (a), (c), and (d), the word ''Administrator'' in sections 313(a) and (e) and 1105 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 752, 798) is retained on authority of 49:106(g).

Subsection (a) is substituted for 49 App.:1324(a) and 1354(a) to eliminate unnecessary words. The word ''standards'' is added for consistency.

In subsection (b), the words ''his responsibilities under'' and ''safe'' are omitted as surplus.

In subsection (c), the words ''department, agency, and instrumentality'' are substituted for ''agency'' and ''governmental agency'' for consistency in the revised title and with other titles of the United States Code. The text of 49 App.:1505 (2d, 3d sentences) is omitted as superseded by 49 App.:1903(b), restated in sections 1105, 1110, and 1111 of the revised title. The word ''existing'' is omitted as surplus.

In subsection (d), the text of 49 App.:1354(e) (last sentence) is omitted because of 49:322(a).

AMENDMENTS

1994—Subsec. (e). Pub. L. 103–305 added subsec. (e).

ADMINISTRATIVE SERVICES FRANCHISE FUND

Pub. L. 104–205, title I, Sept. 30, 1996, 110 Stat. 2957, provided in part that: ''There is hereby established in the Treasury a fund, to be available without fiscal year limitation, for the costs of capitalizing and operating such administrative services as the FAA Administrator determines may be performed more advantageously as centralized services, including accounting, international training, payroll, travel, duplicating, multimedia and information technology services: *Provided*, That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made prior to the current year for the purpose of providing capital shall be used to capitalize such fund: *Provided further*,

That such fund shall be paid in advance from funds available to the FAA and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of Automated Data Processing (ADP) software and systems (either required or donated), and an amount necessary to maintain a reasonable operating reserve, as determined by the FAA Administrator: *Provided further*, That such fund shall provide services on a competitive basis: *Provided further*, That an amount not to exceed four percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each year thereafter, to remain available until expended, to be used for the acquisition of capital equipment and for the improvement and implementation of FAA financial management, ADP, and support systems: *Provided further*, That no later than thirty days after the end of each fiscal year, amounts in excess of this reserve limitation shall be transferred to miscellaneous receipts in the Treasury.''

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

Pub. L. 105–66, title I, Oct. 27, 1997, 111 Stat. 1431, provided in part that: ''Except as specifically provided elsewhere in this Act [see Tables for classification], none of the funds in this Act shall be available for activities under this heading during fiscal year 1998.''

Similar provisions were contained in the following prior appropriation Acts, certain of which also authorized Secretary of Transportation to issue notes or other obligations to Secretary of the Treasury to pay any necessary expenses required pursuant to any guarantee issued under Public Law 85–307, as amended:

Pub. L. 104–205, title I, Sept. 30, 1996, 110 Stat. 2957.
Pub. L. 104–50, title I, Nov. 15, 1995, 109 Stat. 442.
Pub. L. 103–331, title I, Sept. 30, 1994, 108 Stat. 2476.
Pub. L. 103–122, title I, Oct. 27, 1993, 107 Stat. 1205.
Pub. L. 102–388, title I, Oct. 6, 1992, 106 Stat. 1527.
Pub. L. 102–143, title I, Oct. 28, 1991, 105 Stat. 924.
Pub. L. 101–516, title I, Nov. 5, 1990, 104 Stat. 2161.
Pub. L. 101–164, title I, Nov. 21, 1989, 103 Stat. 1076.
Pub. L. 100–457, title I, Sept. 30, 1988, 102 Stat. 2131.
Pub. L. 100–202, § 101(*l*) [title I], Dec. 22, 1987, 101 Stat. 1329–358, 1329–363.
Pub. L. 99–500, § 101(*l*) [H.R. 5205, title I], Oct. 18, 1986, 100 Stat. 1783–308, and Pub. L. 99–591, § 101(*l*) [H.R. 5205, title I], Oct. 30, 1986, 100 Stat. 3341–308.
Pub. L. 99–190, § 101(e) [title I], Dec. 19, 1985, 99 Stat. 1267, 1273.
Pub. L. 98–473, title I, § 3101(i) [title I], Oct. 12, 1984, 98 Stat. 1944, 1950.
Pub. L. 98–78, title I, Aug. 15, 1983, 97 Stat. 458.
Pub. L. 98–63, title I, July 30, 1983, 97 Stat. 339.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 46102 of this title.

§ 40114. Reports and records

(a) WRITTEN REPORTS.—(1) Except as provided in this part, the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) shall make a written report of each proceeding and investigation under this part in which a formal hearing was held and shall provide a copy to each party to the proceeding or investigation. The report shall include the decision, conclusions, order, and requirements of the Secretary or Administrator as appropriate.

(2) The Secretary (or the Administrator with respect to aviation safety duties and powers designated to be carried out by the Administrator) shall have all reports, orders, decisions, and regulations the Secretary or Administrator, as appropriate, issues or prescribes published in the form and way best adapted for public use. A publication of the Secretary or Administrator is competent evidence of its contents.

(b) PUBLIC RECORDS.—Except as provided in subpart II of this part, copies of tariffs and arrangements filed with the Secretary under subpart II, and the statistics, tables, and figures contained in reports made to the Secretary under subpart II, are public records. The Secretary is the custodian of those records. A public record, or a copy or extract of it, certified by the Secretary under the seal of the Department of Transportation is competent evidence in an investigation by the Secretary and in a judicial proceeding.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1110.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40114(a)(1) ..	49 App.:1324(d) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85–726, §§ 204(d), 313(b), 1103, 72 Stat. 743, 753, 797.
	49 App.:1354(b) (1st, 2d sentences).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
40114(a)(2) ..	49 App.:1324(d) (3d, last sentences).	
	49 App.:1354(b) (3d, last sentences).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
40114(b)	49 App.:1503.	
	49 App.:1551(b)(1)(E).	

In subsection (a), the word ''Administrator'' in section 313(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 753) is retained on authority of 49:106(g).

In subsection (a)(1), the words ''otherwise'', ''requirement in the premises'', and ''shall be entered of record'' are omitted as surplus.

In subsection (a)(2), the word ''rules'' is omitted as being synonymous with ''regulations''. The word ''prescribes'' is added for consistency in the revised title and with other titles of the United States Code. The words ''under this chapter'' and ''information and'' are omitted as surplus. The words ''A publication of the Secretary or Administrator is competent evidence of its contents'' is substituted for 49 App.:1324(d) (last sentence) to eliminate unnecessary words and for consistency.

In subsection (b), the words ''otherwise'', ''all contracts, agreements, understandings, and'', ''annual or other'', ''of air carriers and other persons'', and ''preserved as'' are omitted as surplus. The last sentence is substituted for 49 App.:1503 (words after 7th comma) to eliminate unnecessary words and for consistency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 40115. Withholding information

(a) OBJECTIONS TO DISCLOSURE.—(1) A person may object to the public disclosure of information—

(A) in a record filed under this part; or

(B) obtained under this part by the Secretary of Transportation or State or the United States Postal Service.

(2) An objection must be in writing and must state the reasons for the objection. The Secretary of Transportation or State or the Postal Service shall order the information withheld from public disclosure when the appropriate Secretary or the Postal Service decides that disclosure of the information would—

(A) prejudice the United States Government in preparing and presenting its position in international negotiations; or

(B) have an adverse effect on the competitive position of an air carrier in foreign air transportation.

(b) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1111.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40115	49 App.:1504.	Aug. 23, 1958, Pub. L. 85–726, §1104, 72 Stat. 797; restated Oct. 24, 1978, Pub. L. 95–504, §39, 92 Stat. 1743; Feb. 15, 1980, Pub. L. 96–192, §19, 94 Stat. 43.

In subsection (a)(1)(B), the words ''the Secretary of Transportation or State or the United States Postal Service'' are substituted for ''the Board, the Secretary of State, or the Secretary of Transportation'' because under 49 App.:1551 the duties of the Civil Aeronautics Board were transferred to the Secretary of Transportation and the Postal Service.

In subsection (a)(2), the words ''shall order the information withheld from public disclosure when the appropriate Secretary or the Postal Service decides that disclosure of the information'' are substituted for ''shall be withheld from public disclosure by the Board, the Secretary of State or the Secretary of Transportation'' for clarity and because of the restatement.

In subsection (b), the words ''The Board, the Secretary of State, or the Secretary of Transportation, as the case may be, shall be responsible for classified information in accordance with appropriate law'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 46311 of this title.

§ 40116. State taxation

(a) DEFINITION.—In this section, ''State'' includes the District of Columbia, a territory or possession of the United States, and a political authority of at least 2 States.

(b) PROHIBITIONS.—Except as provided in subsection (c) of this section and section 40117 of this title, a State, a political subdivision of a State, and any person that has purchased or leased an airport under section 47134 of this title may not levy or collect a tax, fee, head charge, or other charge on—

(1) an individual traveling in air commerce;

(2) the transportation of an individual traveling in air commerce;

(3) the sale of air transportation; or

(4) the gross receipts from that air commerce or transportation.

(c) AIRCRAFT TAKING OFF OR LANDING IN STATE.—A State or political subdivision of a State may levy or collect a tax on or related to a flight of a commercial aircraft or an activity or service on the aircraft only if the aircraft takes off or lands in the State or political subdivision as part of the flight.

(d) UNREASONABLE BURDENS AND DISCRIMINATION AGAINST INTERSTATE COMMERCE.—(1) In this subsection—

(A) ''air carrier transportation property'' means property (as defined by the Secretary of Transportation) that an air carrier providing air transportation owns or uses.

(B) ''assessment'' means valuation for a property tax levied by a taxing district.

(C) ''assessment jurisdiction'' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation.

(D) ''commercial and industrial property'' means property (except transportation property and land used primarily for agriculture or timber growing) devoted to a commercial or industrial use and subject to a property tax levy.

(2)(A) A State, political subdivision of a State, or authority acting for a State or political subdivision may not do any of the following acts because those acts unreasonably burden and discriminate against interstate commerce:

(i) assess air carrier transportation property at a value that has a higher ratio to the true market value of the property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(ii) levy or collect a tax on an assessment that may not be made under clause (i) of this subparagraph.

(iii) levy or collect an ad valorem property tax on air carrier transportation property at a tax rate greater than the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(iv) levy or collect a tax, fee, or charge, first taking effect after August 23, 1994, exclusively upon any business located at a commercial service airport or operating as a permittee of such an airport other than a tax, fee, or charge wholly utilized for airport or aeronautical purposes.

(B) Subparagraph (A) of this paragraph does not apply to an in lieu tax completely used for airport and aeronautical purposes.

(e) OTHER ALLOWABLE TAXES AND CHARGES.—Except as provided in subsection (d) of this section, a State or political subdivision of a State may levy or collect—

(1) taxes (except those taxes enumerated in subsection (b) of this section), including property taxes, net income taxes, franchise taxes, and sales or use taxes on the sale of goods or services; and

(2) reasonable rental charges, landing fees, and other service charges from aircraft operators for using airport facilities of an airport owned or operated by that State or subdivision.

(f) PAY OF AIR CARRIER EMPLOYEES.—(1) In this subsection—

(A) ''pay'' means money received by an employee for services.

(B) ''State'' means a State of the United States, the District of Columbia, and a territory or possession of the United States.

(C) an employee is deemed to have earned 50 percent of the employee's pay in a State or political subdivision of a State in which the scheduled flight time of the employee in the State or subdivision is more than 50 percent of the total scheduled flight time of the employee when employed during the calendar year.

(2) The pay of an employee of an air carrier having regularly assigned duties on aircraft in at least 2 States is subject to the income tax laws of only the following:

(A) the State or political subdivision of the State that is the residence of the employee.

(B) the State or political subdivision of the State in which the employee earns more than 50 percent of the pay received by the employee from the carrier.

(3) Compensation paid by an air carrier to an employee described in subsection (a) in connection with such employee's authorized leave or other authorized absence from regular duties on the carrier's aircraft in order to perform services on behalf of the employee's airline union shall be subject to the income tax laws of only the following:

(A) The State or political subdivision of the State that is the residence of the employee.

(B) The State or political subdivision of the State in which the employee's scheduled flight time would have been more than 50 percent of the employee's total scheduled flight time for the calendar year had the employee been engaged full time in the performance of regularly assigned duties on the carrier's aircraft.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1111; Pub. L. 103–305, title I, § 112(e), title II, § 208, Aug. 23, 1994, 108 Stat. 1576, 1588; Pub. L. 104–264, title I, § 149(b), Oct. 9, 1996, 110 Stat. 3226; Pub. L. 104–287, § 5(66), Oct. 11, 1996, 110 Stat. 3395.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40116(a)	49 App.:1513(d)(2)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1113(d); added Sept. 3, 1982, Pub. L. 97–248, § 532(b), 96 Stat. 701.
	49 App.:1513(f) (words in parentheses).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1113(f); added Nov. 5, 1990, Pub. L. 101–508, § 9125, 104 Stat. 1388–370.
40116(b)	49 App.:1513(a).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1113(a); added June 18, 1973, Pub. L. 93–44, § 7(a), 87 Stat. 90; Nov. 5, 1990, Pub. L. 101–508, § 9110(1), 104 Stat. 1388–357.
40116(c)	49 App.:1513(f) (less words in parentheses).	
40116(d)	49 App.:1513(d)(1), (2)(A)–(D), (3).	
40116(e)	49 App.:1513(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1113(b); added June 18, 1973, Pub. L. 93–44, § 7(a), 87 Stat. 90; Sept. 3, 1982, Pub. L. 97–248, § 532(a), 96 Stat. 701.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40116(f)(1)(A), (B).	49 App.:1512(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1112; added Dec. 23, 1970, Pub. L. 91–569, § 4(a), 84 Stat. 1502; restated Feb. 18, 1980, Pub. L. 96–193, § 402, 94 Stat. 57.
40116(f)(1)(C).	49 App.:1512(b).	
40116(f)(2) ...	49 App.:1512(a).	

Subsection (a) is made applicable to subsections (b) and (e) of this section to avoid having to repeat the term being defined. In subsection (a), the words ''Commonwealth of Puerto Rico, the Virgin Islands, Guam'' are omitted as surplus because of the definition of ''territory or possession of the United States'' in section 40102(a) of the revised title. The word ''authority'' is substituted for ''agencies'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), before clause (1), reference to 49 App.:1513(f), restated as subsection (c) of this section, is added for clarity. The words ''directly or indirectly'' are omitted as surplus. The text of 49 App.:1513(a) (words after ''subsection (e) and'') is omitted as surplus.

In subsections (d)(2)(A), before clause (i), and (f)(1)(C) and (2), the word ''political'' is added for consistency in the revised title and with other titles of the Code.

In subsection (f)(1)(A), the word ''pay'' is substituted for ''compensation'' for consistency in the revised title and with chapter 55 of title 5, United States Code. The words ''rendered by the employee in the performance of his duties and shall include wages and salary'' are omitted as surplus.

In subsection (f)(1)(B), the words ''means a State of the United States'' are substituted for ''also means'' for clarity.

In subsection (f)(1)(C), the words ''of a State'' are added for clarity.

In subsection (f)(2), before clause (A), the words ''as such an employee'' are omitted as surplus.

PUB. L. 104–287

This amends 49:40116(d)(2)(A)(iv) to conform to the style of title 49 and to set out the effective date for this clause.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–264, in introductory provisions, substituted ''a State, a'' for ''a State or'' and inserted '', and any person that has purchased or leased an airport under section 47134 of this title'' after ''of a State''.

Subsec. (d)(2)(A)(iv). Pub. L. 104–287, which directed substitution of ''August 23, 1994'' for ''the date of enactment of this clause'', was executed by making the substitution for ''the date of the enactment of this clause'' to reflect the probable intent of Congress.

Pub. L. 104–287 substituted ''levy'' for ''Levy''.

1994—Subsec. (d)(2)(A)(iv). Pub. L. 103–305, § 112(e), added cl. (iv).

Subsec. (f)(3). Pub. L. 103–305, § 208, added par. (3).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46301, 46316, 47134 of this title.

§ 40117. Passenger facility fees

(a) DEFINITIONS.—In this section—

(1) ''airport'', ''commercial service airport'', and ''public agency'' have the same meanings given those terms in section 47102 of this title.

(2) ''eligible agency'' means a public agency that controls a commercial service airport.

(3) ''eligible airport-related project'' means a project—

(A) for airport development or airport planning under subchapter I of chapter 471 of this title;

(B) for terminal development described in section 47110(d) of this title;

(C) for airport noise capability planning under section 47505 of this title;

(D) to carry out noise compatibility measures eligible for assistance under section 47504 of this title, whether or not a program for those measures has been approved under section 47504; and

(E) for constructing gates and related areas at which passengers board or exit aircraft.

(4) ''passenger facility fee'' means a fee imposed under this section.

(5) ''passenger facility revenue'' means revenue derived from a passenger facility fee.

(b) GENERAL AUTHORITY.—(1) The Secretary of Transportation may authorize under this section an eligible agency to impose a passenger facility fee of $1, $2, or $3 on each paying passenger of an air carrier or foreign air carrier boarding an aircraft at an airport the agency controls to finance an eligible airport-related project, including making payments for debt service on indebtedness incurred to carry out the project, to be carried out in connection with the airport or any other airport the agency controls.

(2) A State, political subdivision of a State, or authority of a State or political subdivision that is not the eligible agency may not regulate or prohibit the imposition or collection of a passenger facility fee or the use of the passenger facility revenue.

(3) A passenger facility fee may be imposed on a passenger of an air carrier or foreign air carrier originating or connecting at the commercial service airport that the agency controls.

(c) APPLICATIONS.—(1) An eligible agency must submit to the Secretary an application for authority to impose a passenger facility fee. The application shall contain information and be in the form that the Secretary may require by regulation.

(2) Before submitting an application, the eligible agency must provide reasonable notice to, and an opportunity for consultation with, air carriers and foreign air carriers operating at the airport. The Secretary shall prescribe regulations that define reasonable notice and contain at least the following requirements:

(A) The agency must provide written notice of individual projects being considered for financing by a passenger facility fee and the date and location of a meeting to present the projects to air carriers and foreign air carriers operating at the airport.

(B) Not later than 30 days after written notice is provided under subparagraph (A) of this paragraph, each air carrier and foreign air carrier operating at the airport must provide to the agency written notice of receipt of the notice. Failure of a carrier to provide the notice may be deemed certification of agreement with the project by the carrier under subparagraph (D) of this paragraph.

(C) Not later than 45 days after written notice is provided under subparagraph (A) of this paragraph, the agency must conduct a meeting to provide air carriers and foreign air carriers with descriptions of projects and justifications and a detailed financial plan for projects.

(D) Not later than 30 days after the meeting, each air carrier and foreign air carrier must provide to the agency certification of agreement or disagreement with projects (or total plan for the projects). Failure to provide the certification is deemed certification of agreement with the project by the carrier. A certification of disagreement is void if it does not contain the reasons for the disagreement.

(3) After receiving an application, the Secretary shall provide notice and an opportunity to air carriers, foreign air carriers, and other interested persons to comment on the application. The Secretary shall make a final decision on the application not later than 120 days after receiving it.

(d) LIMITATIONS ON APPROVING APPLICATIONS.—The Secretary may approve an application that an eligible agency has submitted under subsection (c) of this section to finance a specific project only if the Secretary finds, based on the application, that—

(1) the amount and duration of the proposed passenger facility fee will result in revenue (including interest and other returns on the revenue) that is not more than the amount necessary to finance the specific project;

(2) each project is an eligible airport-related project that will—

(A) preserve or enhance capacity, safety, or security of the national air transportation system;

(B) reduce noise resulting from an airport that is part of the system; or

(C) provide an opportunity for enhanced competition between or among air carriers and foreign air carriers; and

(3) the application includes adequate justification for each of the specific projects.

(e) LIMITATIONS ON IMPOSING FEES.—(1) An eligible agency may impose a passenger facility fee only—

(A) if the Secretary approves an application that the agency has submitted under subsection (c) of this section; and

(B) subject to terms the Secretary may prescribe to carry out the objectives of this section.

(2) A passenger facility fee may not be collected from a passenger—

(A) for more than 2 boardings on a one-way trip or a trip in each direction of a round trip;

(B) for the boarding to an eligible place under subchapter II of chapter 417 of this title for which essential air service compensation is paid under subchapter II; and

(C) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement, including any case in which the passenger obtained the ticket for the air transportation with a frequent flier award coupon without monetary payment.

(f) LIMITATIONS ON CONTRACTS, LEASES, AND USE AGREEMENTS.—(1) A contract between an air carrier or foreign air carrier and an eligible agency made at any time may not impair the authority of the agency to impose a passenger facility fee or to use the passenger facility revenue as provided in this section.

(2) A project financed with a passenger facility fee may not be subject to an exclusive long-term lease or use agreement of an air carrier or foreign air carrier, as defined by regulations of the Secretary.

(3) A lease or use agreement of an air carrier or foreign air carrier related to a project whose construction or expansion was financed with a passenger facility fee may not restrict the eligible agency from financing, developing, or assigning new capacity at the airport with passenger facility revenue.

(g) TREATMENT OF REVENUE.—(1) Passenger facility revenue is not airport revenue for purposes of establishing a price under a contract between an eligible agency and an air carrier or foreign air carrier.

(2) An eligible agency may not include in its price base the part of the capital costs of a project paid for by using passenger facility revenue to establish a price under a contract between the agency and an air carrier or foreign air carrier.

(3) For a project for terminal development, gates and related areas, or a facility occupied or used by at least one air carrier or foreign air carrier on an exclusive or preferential basis, a price payable by an air carrier or foreign air carrier using the facilities must at least equal the price paid by an air carrier or foreign air carrier using a similar facility at the airport that was not financed with passenger facility revenue.

(4) Passenger facility revenues that are held by an air carrier or an agent of the carrier after collection of a passenger facility fee constitute a trust fund that is held by the air carrier or agent for the beneficial interest of the eligible agency imposing the fee. Such carrier or agent holds neither legal nor equitable interest in the passenger facility revenues except for any handling fee or retention of interest collected on unremitted proceeds as may be allowed by the Secretary.

(h) COMPLIANCE.—(1) As necessary to ensure compliance with this section, the Secretary shall prescribe regulations requiring recordkeeping and auditing of accounts maintained by an air carrier or foreign air carrier and its agent collecting a passenger facility fee and by the eligible agency imposing the fee.

(2) The Secretary periodically shall audit and review the use by an eligible agency of passenger facility revenue. After review and a public hearing, the Secretary may end any part of the authority of the agency to impose a passenger facility fee to the extent the Secretary decides that the revenue is not being used as provided in this section.

(3) The Secretary may set off amounts necessary to ensure compliance with this section against amounts otherwise payable to an eligible agency under subchapter I of chapter 471 of this title if the Secretary decides a passenger facility fee is excessive or that passenger facility revenue is not being used as provided in this section.

(i) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section. The regulations—

(1) may prescribe the time and form by which a passenger facility fee takes effect; and

(2) shall—

(A) require an air carrier or foreign air carrier and its agent to collect a passenger facility fee that an eligible agency imposes under this section;

(B) establish procedures for handling and remitting money collected;

(C) ensure that the money, less a uniform amount the Secretary determines reflects the average necessary and reasonable expenses (net of interest accruing to the carrier and agent after collection and before remittance) incurred in collecting and handling the fee, is paid promptly to the eligible agency for which they are collected; and

(D) require that the amount collected for any air transportation be noted on the ticket for that air transportation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1113; Pub. L. 103–305, title II, §§ 203, 204(a)(1), (b), Aug. 23, 1994, 108 Stat. 1582, 1583; Pub. L. 104–264, title I, § 142(b)(2), title XII, § 1202, Oct. 9, 1996, 110 Stat. 3221, 3280; Pub. L. 104–287, § 5(67), Oct. 11, 1996, 110 Stat. 3395.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40117(a)(1) ..	49 App.:1513(e)(15)(A), (B), (D).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1113(e)(1)–(3), (5)–(15); added Nov. 5, 1990, Pub. L. 101–508, § 9110(2), 104 Stat. 1388–357.
40117(a)(2) ..	(no source).	
40117(a)(3) ..	49 App.:1513(e)(15)(C).	
40117(a)(4), (5).	(no source).	
40117(b)(1) ..	49 App.:1513(e)(1).	
40117(b)(2) ..	49 App.:1513(e)(8) (1st sentence).	
40117(b)(3) ..	49 App.:1513(e)(6) (1st sentence).	
40117(c)(1), (2).	49 App.:1513(e)(11)(A)–(C).	
40117(c)(3) ..	49 App.:1513(e)(11)(D), (E) (last sentence).	
40117(d)	49 App.:1513(e)(2), (5).	
40117(e)(1)(A).	49 App.:1513(e)(11)(E) (1st sentence).	
40117(e)(1)(B).	49 App.:1513(e)(13).	
40117(e)(2)(A).	49 App.:1513(e)(6) (last sentence).	
40117(e)(2)(B).	49 App.:1513(e)(3).	
40117(e)(2)(C).	49 App.:1513(e)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1113(e)(4); added Nov. 5, 1990, Pub. L. 101–508, § 9110(2), 104 Stat. 1388–357; Oct. 31, 1992, Pub. L. 102–581, § 105, 106 Stat. 4877.
40117(f)(1) ...	49 App.:1513(e)(8) (last sentence).	
40117(f)(2), (3).	49 App.:1513(e)(9).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40117(g)	49 App.:1513(e)(7).	
40117(h)	49 App.:1513(e)(12).	
40117(i)	49 App.:1513(e)(10), (14).	

In subsection (a), before clause (1), the text of 49 App.:1513(e)(15)(A) is omitted for clarity and because the terms ''air carrier'' and ''foreign air carrier'' are used the first time they appear in each subsection. The text of 49 App.:1513(e)(15)(D) is omitted because the complete name of the Secretary of Transportation is used the first time the term appears in this section. Clauses (2), (4), and (5) are added to avoid repeating the source provisions throughout this section. In clause (3)(D), the words ''without regard to'' are omitted as surplus.

In subsection (b)(1), the words ''bonds and other'' are omitted as surplus.

In subsection (b)(2), the word ''limit'' is omitted as being included in ''regulate''.

In subsection (d), before clause (1), the text of 49 App.:1513(e)(5) is omitted as executed. The words ''approve an application that an eligible agency has submitted under subsection (c) of this section'' are substituted for ''grant a public agency which controls a commercial service airport authority to impose a fee under this subsection'' for clarity.

In subsection (e)(1)(B), the words ''and conditions'' are omitted as being included in ''terms''.

Subsection (e)(2)(A) is substituted for 49 App.:1513(e)(6) (last sentence) to eliminate unnecessary words.

In subsection (e)(2)(B), the words ''a public agency which controls any other airport'', ''If a passenger of an air carrier is being provided air service'', and ''with respect to such air service'' are omitted as surplus.

In subsection (f)(3), the words ''financed with'' are substituted for ''carried out through the use of'' for consistency in this section and to eliminate unnecessary words.

In subsection (g), the word ''price'' is substituted for ''rate, fee, or charge'' and ''rates, fees, and charges'' to eliminate unnecessary words.

In subsection (g)(2), the words ''Except as provided by subparagraph (C)'' and ''by means of depreciation, amortization, or any other method'' are omitted as surplus.

In subsection (h)(1), the word ''agent'' is substituted for ''agency'' to correct an error in the source provisions.

In subsection (i), before clause (1), the words ''Not later than May 4, 1991'' are omitted as obsolete.

PUB. L. 104–287

This repeals 49:40117(e)(2)(C) to eliminate an executed provision and makes conforming amendments.

AMENDMENTS

1996—Subsec. (a)(3)(D) to (F). Pub. L. 104–264, §142(b)(2), inserted ''and'' at end of subpar. (D), substituted a period for ''; and'' at end of subpar. (E), and struck out subpar. (F) which read as follows: ''in addition to projects eligible under subparagraph (A), the construction, reconstruction, repair, or improvement of areas of an airport used for the operation of aircraft or actions to mitigate the environmental effects of such construction, reconstruction, repair, or improvement when the construction, reconstruction, repair, improvement, or action is necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990, the Clean Air Act, or the Federal Water Pollution Control Act with respect to the airport.''

Subsec. (e)(2)(B) to (D). Pub. L. 104–287 inserted ''and'' at end of subpar. (B), redesignated subpar. (D) as (C), and struck out former subpar. (C) which read as follows: ''for a project the Secretary does not approve under this section before October 1, 1993, if, during the fiscal year ending September 30, 1993, the amount available for obligation under subchapter II of chapter 417 of this title is less than $38,600,000, except that this clause—

''(i) does not apply if the amount available for obligation under subchapter II of chapter 417 of this title is less than $38,600,000 because of sequestration or other general appropriations reductions applied proportionately to appropriations accounts throughout an appropriation law; and

''(ii) does not affect the authority of the Secretary to approve the imposition of a fee or the use of revenues, derived from a fee imposed under an approval made under this section, by a public agency that has received an approval to impose a fee under this section before September 30, 1993, regardless of whether the fee is being imposed on September 30, 1993; and''.

Subsec. (g)(4). Pub. L. 104–264, §1202, added par. (4).

1994—Subsec. (a)(3)(F). Pub. L. 103–305, §203, added subpar. (F).

Subsec. (d)(3). Pub. L. 103–305, §204(b), added par. (3).

Subsec. (e)(2)(D). Pub. L. 103–305, §204(a)(1), added subpar. (D).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

LIMITATION ON STATUTORY CONSTRUCTION OF SUBSECTION (e)(2)(D)

Section 204(a)(2) of Pub. L. 103–305 provided that: ''The amendment made by paragraph (1) [amending this section] shall not be construed as requiring any person to refund any fee paid before the date of the enactment of this Act [Aug. 23, 1994].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40116, 46301, 46316, 47102, 47111, 47114, 47134, 47524, 47526, 49108 of this title.

§ 40118. Government-financed air transportation

(a) TRANSPORTATION BY AIR CARRIERS HOLDING CERTIFICATES.—A department, agency, or instrumentality of the United States Government shall take necessary steps to ensure that the transportation of passengers and property by air is provided by an air carrier holding a certificate under section 41102 of this title if—

(1) the department, agency, or instrumentality—

(A) obtains the transportation for itself or in carrying out an arrangement under which payment is made by the Government or payment is made from amounts provided for the use of the Government; or

(B) provides the transportation to or for a foreign country or international or other organization without reimbursement;

(2) the transportation is authorized by the certificate or by regulation or exemption of the Secretary of Transportation; and

(3) the air carrier is—

(A) available, if the transportation is between a place in the United States and a place outside the United States; or

(B) reasonably available, if the transportation is between 2 places outside the United States.

(b) TRANSPORTATION BY FOREIGN AIR CARRIERS.—This section does not preclude the transportation of passengers and property by a foreign air carrier if the transportation is provided under a bilateral or multilateral air transportation agreement to which the Government and the government of a foreign country are parties if the agreement—

(1) is consistent with the goals for international aviation policy of section 40101(e) of this title; and

(2) provides for the exchange of rights or benefits of similar magnitude.

(c) PROOF.—The Administrator of General Services shall prescribe regulations under which agencies may allow the expenditure of an appropriation for transportation in violation of this section only when satisfactory proof is presented showing the necessity for the transportation.

(d) CERTAIN TRANSPORTATION BY AIR OUTSIDE THE UNITED STATES.—Notwithstanding subsections (a) and (c) of this section, any amount appropriated to the Secretary of State, the Director of the United States Information Agency, the Director of the United States International Development Cooperation Agency, or the Director of the Arms Control and Disarmament Agency may be used to pay for the transportation of an officer or employee of the Department of State or one of those agencies, a dependent of the officer or employee, and accompanying baggage, by a foreign air carrier when the transportation is between 2 places outside the United States.

(e) RELATIONSHIP TO OTHER LAWS.—This section does not affect the application of the antidiscrimination provisions of this part.

(f) PROHIBITION OF CERTIFICATION OR CONTRACT CLAUSE.—(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the transportation of commercial items in order to implement a requirement in this section.

(2) In paragraph (1), the term ''commercial item'' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1116; Pub. L. 103–355, title VIII, § 8301(h), Oct. 13, 1994, 108 Stat. 3398; Pub. L. 104–287, § 5(68), Oct. 11, 1996, 110 Stat. 3395; Pub. L. 104–316, title I, § 127(d), Oct. 19, 1996, 110 Stat. 3840.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40118(a)	49 App.:1517(a), (b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1117; added Jan. 3, 1975, Pub. L. 93–623, § 5(a), 88 Stat. 2104; restated Feb. 15, 1980, Pub. L. 96–192, § 21, 94 Stat. 43.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
40118(b)	49 App.:1517(c).	
40118(c)	49 App.:1517(d) (1st sentence).	
40118(d)	49 App.:1518.	Oct. 7, 1978, Pub. L. 95–426, § 706, 92 Stat. 992.
40118(e)	49 App.:1517(d) (last sentence).	

In this section, the word ''passengers'' is substituted for ''persons'' for consistency in the revised title. The words ''(and their personal effects)'' are omitted as being included in ''property''.

In subsection (a), before clause (1), the words ''Except as provided in subsection (c) of this section'' are omitted as surplus. The words ''department, agency, or instrumentality'' are substituted for ''agency'' for consistency in the revised title and with other titles of the United States Code. The words ''or agencies'' are omitted because of 1:1. In clause (1), before subclause (A), the words ''executive'' and ''other'' are omitted as surplus. In subclause (A), the words ''procure, contract for, or otherwise'' are omitted as surplus. The words ''for itself or in carrying out an arrangement under which payment is made by the Government or payment is made from amounts provided for the use of the Government'' are substituted for ''in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise'' for clarity and to eliminate unnecessary words. In subclause (B), the word ''country'' is substituted for ''nation'' for consistency in the revised title and with other titles of the Code. The words ''international or other organization'' are substituted for ''international agency, or other organization, of whatever nationality'' to eliminate unnecessary words. The words ''provisions for'' are omitted as surplus.

In subsection (b), before clause (1), the words ''government of a foreign country'' are substituted for ''foreign government'' for consistency in the revised title and with other titles of the Code. The words ''or governments'' are omitted because of 1:1.

In subsection (c), the words ''for payment for personnel or cargo transportation'' are omitted as surplus.

In subsection (d), the words ''the limitations established by'' are omitted as surplus. The words ''after October 7, 1978'' are omitted as executed. The words ''Secretary of State'' are substituted for ''Department of State'' because of 22:2651. The words ''Director of the United States Information Agency'' are substituted for ''International Communication Agency'' in section 706 of the Act of October 7, 1978 (Public Law 95–426, 92 Stat. 992), because of section 2 of Reorganization Plan No. 2 of 1977 (eff. July 1, 1978, 91 Stat. 1636) and section 303(b) of the United States Information Agency Authorization Act, Fiscals Year 1982 and 1983 (Public Law 97–241, 96 Stat. 291). The words ''Director of the United States International Development Cooperation Agency'' are substituted for ''Agency for International Development (or any successor agency)'' in section 706 because of section 6(a)(3) of Reorganization Plan No. 2 of 1979 (eff. October 1, 1979, 93 Stat. 1379). The words ''a foreign air carrier'' are substituted for ''air carriers which do not hold certificates under section 1371 of this Appendix'' for clarity. See H. Conf. Rept. No. 95–1535, 95th Cong., 2d Sess., p. 45 (1978).

In subsection (e), the word ''affect'' is substituted for ''prevent'' for clarity. The words ''to such traffic'' are omitted as surplus.

PUB. L. 104–287, § 5(68)(A)

This amends the catchline for 49:40118(d) to make a clarifying amendment.

PUB. L. 104–287, § 5(68)(B)

This amends 49:40118(f)(1) to make a clarifying amendment.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–316 substituted ''Administrator of General Services shall prescribe regulations under which agencies may'' for ''Comptroller General shall''.

Subsec. (d). Pub. L. 104–287, § 5(68)(A), substituted ''CERTAIN TRANSPORTATION BY AIR OUTSIDE THE UNITED

STATES'' for ''TRANSPORTATION BY FOREIGN AIR CARRIERS'' in heading.

Subsec. (f). Pub. L. 104–287, §5(68)(B), inserted heading.

1994—Subsec. (f). Pub. L. 103–355 added subsec. (f).

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 251 of Title 41, Public Contracts.

§ 40119. Security and research and development activities

(a) GENERAL REQUIREMENTS.—The Administrator of the Federal Aviation Administration shall conduct research (including behavioral research) and development activities appropriate to develop, modify, test, and evaluate a system, procedure, facility, or device to protect passengers and property against acts of criminal violence and aircraft piracy.

(b) DISCLOSURE.—(1) Notwithstanding section 552 of title 5, the Administrator shall prescribe regulations prohibiting disclosure of information obtained or developed in carrying out security or research and development activities under section 44501(a) or (c), 44502(a)(1) or (3), (b), or (c), 44504, 44505, 44507, 44508, 44511, 44512, 44513, 44901, 44903(a), (b), (c), or (e), 44905, 44912, 44935, 44936, or 44938(a) or (b) of this title if the Administrator decides disclosing the information would—

(A) be an unwarranted invasion of personal privacy;

(B) reveal a trade secret or privileged or confidential commercial or financial information; or

(C) be detrimental to the safety of passengers in air transportation.

(2) Paragraph (1) of this subsection does not authorize information to be withheld from a committee of Congress authorized to have the information.

(c) TRANSFERS OF DUTIES AND POWERS PROHIBITED.—Except as otherwise provided by law, the Administrator may not transfer a duty or power under this section to another department, agency, or instrumentality of the United States Government.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1117.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40119(a)	49 App.:1357(d)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(d)(1), (e)(1); added Aug. 5, 1974, Pub. L. 93–366, §202, 88 Stat. 417.
40119(b)	49 App.:1357(d)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(d)(2); added Aug. 5, 1974, Pub. L. 93–366, §202, 88 Stat. 417; Nov. 5, 1990, Pub. L. 101–508, §9121, 104 Stat. 1388–370.
40119(c)	49 App.:1357(e)(1).	

In this section, the word ''Administrator'' in section 316(d) and (e) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731) is retained on authority of 49:106(g).

In subsection (a), the words ''as he may deem'' and ''aboard aircraft in air transportation or intrastate air transportation'' are omitted as surplus.

In subsection (b)(1), before clause (A), the words ''relating to freedom of information'', ''as he may deem necessary'', and ''in the conduct of research and development activities'' are omitted as surplus. In clause (A), the words ''(including, but not limited to, information contained in any personnel, medical, or similar file)'' are omitted as surplus. In clause (B), the words ''obtained from any person'' are omitted as surplus. In clause (C), the word ''traveling'' is omitted as surplus.

In subsection (b)(2), the word ''duly'' is omitted as surplus. The words ''to have the information'' are added for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40109, 44501, 44508 of this title.

§ 40120. Relationship to other laws

(a) NONAPPLICATION.—Except as provided in the International Navigational Rules Act of 1977 (33 U.S.C. 1601 et seq.), the navigation and shipping laws of the United States and the rules for the prevention of collisions do not apply to aircraft or to the navigation of vessels related to those aircraft.

(b) EXTENDING APPLICATION OUTSIDE UNITED STATES.—The President may extend (in the way and for periods the President considers necessary) the application of this part to outside the United States when—

(1) an international arrangement gives the United States Government authority to make the extension; and

(2) the President decides the extension is in the national interest.

(c) ADDITIONAL REMEDIES.—A remedy under this part is in addition to any other remedies provided by law.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1117.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
40120(a)	49 App.:1509(a).	Aug. 23, 1958, Pub. L. 85–726, §§1106, 1109(a), 1110, 72 Stat. 798, 799, 800.
40120(b)	49 App.:1510.	
40120(c)	49 App.:1506.	

In subsection (a), the words ''International Navigational Rules Act of 1977 (33 U.S.C. 1601 et seq.)'' are substituted for ''sections 143 to 147d of title 33'' because those sections were repealed by section 3 of the Act of September 24, 1963 (Public Law 88–131, 77 Stat. 194), and replaced by 33:ch. 21. Chapter 21 was repealed by section 10 of the International Navigational Rules Act of 1977 (Public Law 95–75, 91 Stat. 311) and replaced by 33:1601–1608. The words ''including any definition of 'vessel' or 'vehicle' found therein'' and ''be construed to'' are omitted as surplus.

In subsection (b), before clause (1), the words ''to the extent'', ''of time'', and ''any areas of land or water'' are omitted as surplus. The words ''and the overlying airspace thereof'' are omitted as being included in ''outside the United States''. In clause (1), the words ''treaty, agreement or other lawful'' and ''necessary legal'' are omitted as surplus.

Subsection (c) is substituted for 49 App.:1506 to eliminate unnecessary words and for clarity and consistency in the revised title and with other titles of the United States Code.

REFERENCES IN TEXT

The International Navigational Rules Act of 1977, referred to in subsec. (a), is Pub. L. 95–75, July 27, 1977, 91

Stat. 308, as amended, which is classified principally to chapter 30 (§ 1601 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 33 and Tables.

EX. ORD. NO. 10854. EXTENSION OF APPLICATION

Ex. Ord. No. 10854, Nov. 27, 1959, 24 F.R. 9565, as amended by Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, provided:

The application of the Federal Aviation Act of 1958 (72 Stat. 731; 49 U.S.C.A. § 1301 et seq. [see 49 U.S.C. 40101 et seq.]), to the extent necessary to permit the Secretary of Transportation to accomplish the purposes and objectives of Titles III [former 49 U.S.C. 1341 et seq., see Disposition Table at beginning of this title] and XII [see 49 U.S.C. 40103(b)(3), 46307] thereof, is hereby extended to those areas of land or water outside the United States and the overlying airspace thereof over or in which the Federal Government of the United States, under international treaty, agreement or other lawful arrangement, has appropriate jurisdiction or control: *Provided*, That the Secretary of Transportation, prior to taking any action under the authority hereby conferred, shall first consult with the Secretary of State on matters affecting foreign relations, and with the Secretary of Defense on matters affecting national-defense interests, and shall not take any action which the Secretary of State determines to be in conflict with any international treaty or agreement to which the United States is a party, or to be inconsistent with the successful conduct of the foreign relations of the United States, or which the Secretary of Defense determines to be inconsistent with the requirements of national defense.

§ 40121. Air traffic control modernization reviews

(a) REQUIRED TERMINATIONS OF ACQUISITIONS.—The Administrator of the Federal Aviation Administration shall terminate any acquisition program initiated after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996 and funded under the Facilities and Equipment account that—

(1) is more than 50 percent over the cost goal established for the program;

(2) fails to achieve at least 50 percent of the performance goals established for the program; or

(3) is more than 50 percent behind schedule as determined in accordance with the schedule goal established for the program.

(b) AUTHORIZED TERMINATION OF ACQUISITION PROGRAMS.—The Administrator shall consider terminating, under the authority of subsection (a), any substantial acquisition program that—

(1) is more than 10 percent over the cost goal established for the program;

(2) fails to achieve at least 90 percent of the performance goals established for the program; or

(3) is more than 10 percent behind schedule as determined in accordance with the schedule goal established for the program.

(c) EXCEPTIONS AND REPORT.—

(1) CONTINUANCE OF PROGRAM, ETC.—Notwithstanding subsection (a), the Administrator may continue an acquisitions program required to be terminated under subsection (a) if the Administrator determines that termination would be inconsistent with the development or operation of the national air transportation system in a safe and efficient manner.

(2) DEPARTMENT OF DEFENSE.—The Department of Defense shall have the same exemptions from acquisition laws as are waived by the Administrator under section 348(b) of Public Law 104–50 when engaged in joint actions to improve or replenish the national air traffic control system. The Administration may acquire real property, goods, and services through the Department of Defense, or other appropriate agencies, but is bound by the acquisition laws and regulations governing those cases.

(3) REPORT.—If the Administrator makes a determination under paragraph (1), the Administrator shall transmit a copy of the determination, together with a statement of the basis for the determination, to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.

(Added Pub. L. 104–264, title II, § 252, Oct. 9, 1996, 110 Stat. 3236.)

REFERENCES IN TEXT

The date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996, referred to in subsec. (a), is the date of enactment of Pub. L. 104–264, which was approved Oct. 9, 1996.

Section 348(b) of Public Law 104–50, referred to in subsec. (c)(2), is set out as a note under section 40110 of this title.

CODIFICATION

Another section 40121 was renumbered section 40124 of this title.

EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

§ 40122. Federal Aviation Administration personnel management system

(a) IN GENERAL.—

(1) CONSULTATION AND NEGOTIATION.—In developing and making changes to the personnel management system initially implemented by the Administrator of the Federal Aviation Administration on April 1, 1996, the Administrator shall negotiate with the exclusive bargaining representatives of employees of the Administration certified under section 7111 of title 5 and consult with other employees of the Administration.

(2) MEDIATION.—If the Administrator does not reach an agreement under paragraph (1) with the exclusive bargaining representatives, the services of the Federal Mediation and Conciliation Service shall be used to attempt to reach such agreement. If the services of the

Federal Mediation and Conciliation Service do not lead to an agreement, the Administrator's proposed change to the personnel management system shall not take effect until 60 days have elapsed after the Administrator has transmitted the proposed change, along with the objections of the exclusive bargaining representatives to the change, and the reasons for such objections, to Congress.

(3) COST SAVINGS AND PRODUCTIVITY GOALS.—The Administration and the exclusive bargaining representatives of the employees shall use every reasonable effort to find cost savings and to increase productivity within each of the affected bargaining units.

(4) ANNUAL BUDGET DISCUSSIONS.—The Administration and the exclusive bargaining representatives of the employees shall meet annually for the purpose of finding additional cost savings within the Administration's annual budget as it applies to each of the affected bargaining units and throughout the agency.

(b) EXPERT EVALUATION.—On the date that is 3 years after the personnel management system is implemented, the Administration shall employ outside experts to provide an independent evaluation of the effectiveness of the system within 3 months after such date. For this purpose, the Administrator may utilize the services of experts and consultants under section 3109 of title 5 without regard to the limitation imposed by the last sentence of section 3109(b) of such title, and may contract on a sole source basis, notwithstanding any other provision of law to the contrary.

(c) PAY RESTRICTION.—No officer or employee of the Administration may receive an annual rate of basic pay in excess of the annual rate of basic pay payable to the Administrator.

(d) ETHICS.—The Administration shall be subject to Executive Order No. 12674 and regulations and opinions promulgated by the Office of Government Ethics, including those set forth in section 2635 of title 5 of the Code of Federal Regulations.

(e) EMPLOYEE PROTECTIONS.—Until July 1, 1999, basic wages (including locality pay) and operational differential pay provided employees of the Administration shall not be involuntarily adversely affected by reason of the enactment of this section, except for unacceptable performance or by reason of a reduction in force or reorganization or by agreement between the Administration and the affected employees' exclusive bargaining representative.

(f) LABOR-MANAGEMENT AGREEMENTS.—Except as otherwise provided by this title, all labor-management agreements covering employees of the Administration that are in effect on the effective date of the Air Traffic Management System Performance Improvement Act of 1996 shall remain in effect until their normal expiration date, unless the Administrator and the exclusive bargaining representative agree to the contrary.

(Added Pub. L. 104–264, title II, § 253, Oct. 9, 1996, 110 Stat. 3237.)

REFERENCES IN TEXT

Executive Order No. 12674, referred to in subsec. (d), is set out as a note under section 7301 of Title 5, Government Organization and Employees.

The effective date of the Air Traffic Management System Performance Improvement Act of 1996, referred to in subsec. (f), is the date that is 30 days after Oct. 9, 1996. See section 203 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 40123. Protection of voluntarily submitted information

(a) IN GENERAL.—Notwithstanding any other provision of law, neither the Administrator of the Federal Aviation Administration, nor any agency receiving information from the Administrator, shall disclose voluntarily-provided safety or security related information if the Administrator finds that—

(1) the disclosure of the information would inhibit the voluntary provision of that type of information and that the receipt of that type of information aids in fulfilling the Administrator's safety and security responsibilities; and

(2) withholding such information from disclosure would be consistent with the Administrator's safety and security responsibilities.

(b) REGULATIONS.—The Administrator shall issue regulations to carry out this section.

(Added Pub. L. 104–264, title IV, § 402(a), Oct. 9, 1996, 110 Stat. 3255.)

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

§ 40124. Interstate agreements for airport facilities

Congress consents to a State making an agreement, not in conflict with a law of the United States, with another State to develop or operate an airport facility.

(Added Pub. L. 104–287, § 5(69)(A), Oct. 11, 1996, 110 Stat. 3395, § 40121; renumbered § 40124, Pub. L. 105–102, § 3(d)(1)(B), Nov. 20, 1997, 111 Stat. 2215.)

HISTORICAL AND REVISION NOTES

This restates 49:44502(e) as 49:40121 [now 40124] to provide a more appropriate place in title 49.

AMENDMENTS

1997—Pub. L. 105–102 amended Pub. L. 104–287, renumbering section 40121 of this title as this section.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, § 3(d), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(d)(1)(B) is effective Oct. 11, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

SUBPART II—ECONOMIC REGULATION

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 40101, 40102, 40109, 40114, 44712 of this title; title 2 section 451.

CHAPTER 411—AIR CARRIER CERTIFICATES

Sec.
41101. Requirement for a certificate.
41102. General, temporary, and charter air transportation certificates of air carriers.
41103. All-cargo air transportation certificates of air carriers.
41104. Additional limitations and requirements of charter air carriers.
41105. Transfers of certificates.
41106. Airlift service.
41107. Transportation of mail.
41108. Applications for certificates.
41109. Terms of certificates.
41110. Effective periods and amendments, modifications, suspensions, and revocations of certificates.
41111. Simplified procedure to apply for, amend, modify, suspend, and transfer certificates.
41112. Liability insurance and financial responsibility.
41113. Plans to address needs of families of passengers involved in aircraft accidents.

AMENDMENTS

1996—Pub. L. 104–264, title VII, § 703(b), Oct. 9, 1996, 110 Stat. 3268, added item 41113.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 40105, 40109, 41907, 46301 of this title; title 39 section 5402.

§ 41101. Requirement for a certificate

(a) GENERAL.—Except as provided in this chapter or another law—

(1) an air carrier may provide air transportation only if the air carrier holds a certificate issued under this chapter authorizing the air transportation;

(2) a charter air carrier may provide charter air transportation only if the charter air carrier holds a certificate issued under this chapter authorizing the charter air transportation; and

(3) an air carrier may provide all-cargo air transportation only if the air carrier holds a certificate issued under this chapter authorizing the all-cargo air transportation.

(b) THROUGH SERVICE AND JOINT TRANSPORTATION.—A citizen of the United States providing transportation in a State of passengers or property as a common carrier for compensation with aircraft capable of carrying at least 30 passengers, under authority granted by the appropriate State authority—

(1) may provide transportation for passengers and property that includes through service by the citizen over its routes in the State and in air transportation by an air carrier or foreign air carrier; and

(2) subject to sections 41309 and 42111 of this title, may make an agreement with an air carrier or foreign air carrier to provide the joint transportation.

(c) PROPRIETARY OR EXCLUSIVE RIGHT NOT CONFERRED.—A certificate issued under this chapter does not confer a proprietary or exclusive right to use airspace, an airway of the United States, or an air navigation facility.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1118.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41101(a)(1) ..	49 App.:1371(a).	Aug. 23, 1958, Pub. L. 85–726, § 401(a), (i), 72 Stat. 754, 756.
41101(a)(2) ..	49 App.:1301(14) (related to certificate).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 101(14) (related to certificate); added Oct. 24, 1978, Pub. L. 95–504, § 2(a)(1), 92 Stat. 1705.
41101(a)(3) ..	(no source).	
41101(b)	49 App.:1371(d)(4)(A)(i), (ii) (related to joint services).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(d)(4)(A)(i), (ii) (related to joint services); added Nov. 9, 1977, Pub. L. 95–163, § 9, 91 Stat. 1281; restated Oct. 24, 1978, Pub. L. 95–504, § 9, 92 Stat. 1713.
41101(c)	49 App.:1371(i).	

In subsections (a)(2) and (c), the words ''issued under this chapter'' are added for clarity.

In subsection (a), the word ''provide'' is substituted for ''engage in'' for consistency in the revised title. The words before clause (1) are added to inform the reader that other provisions of the chapter and other laws qualify the requirement of being licensed by the Secretary of Transportation. In clause (1), the word ''holds'' is substituted for ''there is in force'' to eliminate unnecessary words. The words ''under this chapter'' are substituted for ''by the Board'' for clarity. In clause (2), the words ''of public convenience and necessity'' are omitted as surplus. Clause (3) is included to inform the reader at the beginning of this chapter about all of the types of certificates and permits that the Secretary may issue under this subchapter.

In subsection (b), the word ''passengers'' is substituted for ''persons'' for consistency in the revised title. Before clause (1), the words ''Notwithstanding any other provision of this chapter'' are omitted as surplus. The words ''providing transportation'' are substituted for ''undertakes . . . the carriage of'' for consistency in the revised title. The words ''or hire'' are omitted as surplus and for consistency. The words ''for such carriage within such State'' are omitted as surplus. In clause (1), the words ''through service'' are substituted for ''transportation'' the first time it appears for clarity. In clause (2), the words ''the requirements of'' and ''for such through services'' are omitted as surplus.

In subsection (c), the word ''property'' is omitted as surplus. The words ''landing area'' are omitted because they are included in the definition of ''air navigation facility'' in section 40102(a) of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41103, 41503, 46108, 47102 of this title.

§ 41102. General, temporary, and charter air transportation certificates of air carriers

(a) ISSUANCE.—The Secretary of Transportation may issue a certificate of public convenience and necessity to a citizen of the United States authorizing the citizen to provide any part of the following air transportation the citizen has applied for under section 41108 of this title:

(1) air transportation as an air carrier.

(2) temporary air transportation as an air carrier for a limited period.

(3) charter air transportation as a charter air carrier.

(b) FINDINGS REQUIRED FOR ISSUANCE.—(1) Before issuing a certificate under subsection (a) of this section, the Secretary must find that the citizen is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this part and regulations of the Secretary.

(2) In addition to the findings under paragraph (1) of this subsection, the Secretary, before issuing a certificate under subsection (a) of this section for foreign air transportation, must find that the transportation is consistent with the public convenience and necessity.

(c) TEMPORARY CERTIFICATES.—The Secretary may issue a certificate under subsection (a) of this section for interstate air transportation (except the transportation of passengers) or foreign air transportation for a temporary period of time (whether the application is for permanent or temporary authority) when the Secretary decides that a test period is desirable—

(1) to decide if the projected services, efficiencies, methods, and prices and the projected results will materialize and remain for a sustained period of time; or

(2) to evaluate the new transportation.

(d) FOREIGN AIR TRANSPORTATION.—The Secretary shall submit each decision authorizing the provision of foreign air transportation to the President under section 41307 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1119.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41102(a)	49 App.:1371(d)(1) (words before 1st comma and after semicolon), (2) (1st–32d words).	Aug. 23, 1958, Pub. L. 85–726, §401(d)(1), (2), 72 Stat. 755; Oct. 24, 1978, Pub. L. 95–504, §8, 92 Stat. 1712; restated Feb. 15, 1980, Pub. L. 96–192, §4, 94 Stat. 37.
	49 App.:1371(d)(3) (words before 6th comma).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(d)(3); added July 10, 1962, Pub. L. 87–528, §2, 76 Stat. 143; Oct. 24, 1978, Pub. L. 95–504, §8, 92 Stat. 1712; restated Feb. 15, 1980, Pub. L. 96–192, §4, 94 Stat. 37.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41102(b)(1) ..	49 App.:1371(d)(1) (words between 1st and last commas), (2) (42d–last words), (3) (words after 7th comma).	
	49 App.:1551(b)(1)(E).	
41102(b)(2) ..	49 App.:1371(d)(1) (words between last comma and semicolon), (2) (33d–41st words), (3) (words between 6th and 7th commas).	
	49 App.:1551(a)(1)(A).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(1)(A), (B); added Oct. 24, 1978, Pub. L. 95–504, §40(a), 92 Stat. 1744.
	49 App.:1551(b)(1)(E).	
41102(c)	49 App.:1371(d)(8) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(d)(8) (1st sentence); added Oct. 24, 1978, Pub. L. 95–504, §13, 92 Stat. 1718.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41102(d)	49 App.:1551(a)(1)(B), (b)(1)(E). (no source).	

In this section, the words ''citizen of the United States'' and ''citizen'' are substituted for ''applicant'' for clarity and consistency because only a citizen of the United States may be an ''air carrier'' as defined in section 40102(a) of the revised title, and only an air carrier may be a ''charter air carrier'' as defined in section 40102(a). The word ''provide'' is substituted for ''perform'' for consistency in the revised title.

In subsection (a), before clause (1), the words ''of public convenience and necessity'' are added for clarity. The words ''any part of'' are substituted for ''the whole or any part of'' to eliminate unnecessary words. In clauses (2) and (3), the words ''In the case of'' are omitted as surplus. In clause (3), the words ''for such periods'' are omitted as surplus.

In subsection (b)(1), the word ''comply'' is substituted for ''conform'' for consistency in the revised title. The words ''properly'' and ''requirements'' are omitted as surplus. The word ''rules'' is omitted as being synonymous with ''regulations''.

In subsection (b)(2), the words ''foreign air transportation'' are added because 49 App.:1551(a)(1)(A) provides that 49 App.:1371(d)(1)–(3) no longer applies to interstate or overseas transportation of persons. After January 1, 1985, other interstate and overseas air transportation and the domestic air transportation of mail do not require a certificate of public convenience and necessity. See H. Rept. 98–793, 98th Cong., 2d Sess., p.10 (1984).

In subsection (c), before clause (1), the words ''issue a certificate'' are substituted for ''grant an application'' for consistency in this chapter. The words ''for interstate air transportation (except the transportation of passengers) or foreign air transportation'' are added for clarity and consistency. The word ''only'' is omitted as surplus. In clause (1), the word ''prices'' is substituted for ''rates, fares, charges'' because of the definition of ''price'' in section 40102(a) of the revised title. The words ''in fact'' are omitted as surplus. In clause (2), the words ''to assess the impact of the new services on the national air route structure, or otherwise'' are omitted as surplus.

Subsection (d) is added for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 40118, 41104, 41105, 41106, 41107, 41108, 41109, 41110, 41111, 41112, 41113, 41307, 41312, 41505, 41709, 41713, 42101, 42103, 44901, 44915, 46301, 46316, 47102 of this title; title 22 section 3650; title 29 section 1301; title 39 section 5402.

§ 41103. All-cargo air transportation certificates of air carriers

(a) APPLICATIONS.—A citizen of the United States may apply to the Secretary of Transportation for a certificate authorizing the citizen to provide all-cargo air transportation. The application must contain information and be in the form the Secretary by regulation requires.

(b) ISSUANCE.—Not later than 180 days after an application for a certificate is filed under this section, the Secretary shall issue the certificate to a citizen of the United States authorizing the citizen, as an air carrier, to provide any part of the all-cargo air transportation applied for unless the Secretary finds that the citizen is not fit, willing, and able to provide the all-cargo air transportation to be authorized by the certificate and to comply with regulations of the Secretary.

(c) TERMS.—The Secretary may impose terms the Secretary considers necessary when issuing a certificate under this section. However, the Secretary may not impose terms that restrict the places served or prices charged by the holder of the certificate.

(d) EXEMPTIONS AND STATUS.—A citizen issued a certificate under this section—

(1) is exempt in providing the transportation under the certificate from the requirements of—

(A) section 41101(a)(1) of this title and regulations or procedures prescribed under section 41101(a)(1); and

(B) other provisions of this part and regulations or procedures prescribed under those provisions when the Secretary finds under regulations of the Secretary that the exemption is appropriate; and

(2) is an air carrier under this part except to the extent the carrier is exempt under this section from a requirement of this part.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1119; Pub. L. 103–429, § 6(49), Oct. 31, 1994, 108 Stat. 4384.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41103(a)	49 App.:1388(a)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 418(a)(4); added Nov. 9, 1977, Pub. L. 95–163, § 17(a), 91 Stat. 1285; Mar. 14, 1978, Pub. L. 95–245, § 1, 92 Stat. 156.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b) (1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41103(b)	49 App.:1388(b)(1)(B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 418(b)(1)(B); added Nov. 9, 1977, Pub. L. 95–163, § 17(a), 91 Stat. 1285; Mar. 14, 1978, Pub. L. 95–245, § 3, 92 Stat. 156.
	49 App.:1551(b)(1)(E).	
41103(c)	49 App.:1388(b)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 418(b)(2), (c), (d); added Nov. 9, 1977, Pub. L. 95–163, § 17(a), 91 Stat. 1285.
	49 App.:1551(b)(1)(E).	
41103(d)(1) ..	49 App.:1388(c).	
	49 App.:1551(b)(1)(E).	
41103(d)(2) ..	49 App.:1388(d).	

In subsection (a), the words ''After the three hundred and sixty-fifth day which begins after November 9, 1977'' are omitted as executed. The words ''under this section'' are omitted as surplus. The words ''authorizing the citizen'' are added for clarity and consistency in this chapter.

In subsection (b), the words ''pursuant to paragraph (4) of subsection (a) of this section'' are omitted as surplus. The word ''citizen'' is substituted for ''applicant'' for clarity and consistency because only a citizen of the United States may be an ''air carrier'' as defined in section 40102(a) of the revised title and only an air carrier can provide all–cargo air transportation. The words ''to provide'' are added for clarity and consistency in this subchapter. The word ''rules'' is omitted as being synonymous with ''regulations''. The word ''promulgated'' is omitted as surplus.

In subsection (c), the words ''reasonable'', ''and limitations'', and ''and conditions'' are omitted as surplus. The word ''places'' is substituted for ''points'' for consistency in the revised title.

PUB. L. 103–429

This amends 49:41103(a) to make the term consistent throughout subtitle VII of title 49.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–429 substituted ''all-cargo'' for ''all-property''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41110, 41709, 46301, 46316 of this title.

§ 41104. Additional limitations and requirements of charter air carriers

(a) RESTRICTIONS.—The Secretary of Transportation may prescribe a regulation or issue an order restricting the marketability, flexibility, accessibility, or variety of charter air transportation provided under a certificate issued under section 41102 of this title only to the extent required by the public interest. A regulation prescribed or order issued under this subsection may not be more restrictive than a regulation related to charter air transportation that was in effect on October 1, 1978.

(b) ALASKA.—An air carrier holding a certificate issued under section 41102 of this title may provide charter air transportation between places in Alaska only to the extent the Secretary decides the transportation is required by public convenience and necessity. The Secretary may make that decision when issuing, amending, or modifying the certificate. This subsection does not apply to a certificate issued under section 41102 to a citizen of the United States who, before July 1, 1977—

(1) maintained a principal place of business in Alaska; and

(2) conducted air transport operations between places in Alaska with aircraft with a certificate for gross takeoff weight of more than 40,000 pounds.

(c) SUSPENSIONS.—(1) The Secretary shall suspend for not more than 30 days any part of the certificate of a charter air carrier if the Secretary decides that the failure of the carrier to comply with the requirements described in sections 41110(e) and 41112 of this title, or a regulation or order of the Secretary under section 41110(e) or 41112, requires immediate suspension in the interest of the rights, welfare, or safety of the public. The Secretary may act under this paragraph without notice or a hearing.

(2) The Secretary shall begin immediately a hearing to decide if the certificate referred to in paragraph (1) of this subsection should be amended, modified, suspended, or revoked. Until the hearing is completed, the Secretary may suspend the certificate for additional periods totaling not more than 60 days. If the Secretary decides that the carrier is complying with the requirements described in sections 41110(e) and 41112 of this title and regulations and orders under sections 41110(e) and 41112, the Secretary immediately may end the suspension period and proceeding begun under this subsection. However, the Secretary is not prevented from imposing a civil penalty on the carrier for violating the requirements described in section 41110(e) or 41112 or a regulation or order under section 41110(e) or 41112.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1120.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41104(a)	49 App.:1371(n)(2), (4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(n)(2)–(4); added July 10, 1962, Pub. L. 87–528, § 4, 76 Stat. 144; restated Oct. 24, 1978, Pub. L. 95–504, § 20(b), 92 Stat. 1721.
	49 App.:1551(a)(1)(E) (related to 49 App.:1371(n)(4)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(1)(E) (related to § 401(n)(4)); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1744.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b) (1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41104(b)	49 App.:1371(n)(3). 49 App.:1551(b)(1)(E).	
41104(c)	49 App.:1371(n)(5).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(n)(5); added July 10, 1962, Pub. L. 87–528, § 4, 76 Stat. 145; Oct. 24, 1978, Pub. L. 95–504, § 20(c), 92 Stat. 1722.
	49 App.:1371(n)(6).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(n)(6); added July 10, 1962, Pub. L. 87–528, § 4, 76 Stat. 145.
	49 App.:1551(b)(1)(E).	

In subsection (a), the word ''rule'' is omitted as being synonymous with ''regulation''. The words ''charter air transportation'' are substituted for ''charter trips'' for consistency in this part. The text of 49 App.:1371(n)(4) and 1551(n)(1)(E) (related to 49 App.:1371(n)(4)) is omitted because inclusive tour charters have been abolished and charter air carriers have received authority to sell public charter flights directly to the public.

In subsection (b), before clause (1), the words ''Notwithstanding any other provision of this subchapter'' are omitted as surplus. The words ''An air carrier holding'' are added for clarity. The words ''State of'' are omitted as surplus. The word ''modifying'' is added for consistency in the revised title. The words ''citizen of the United States'' are substituted for ''person'' for clarity and consistency because only a citizen of the United States may be an ''air carrier'' as defined in section 40102(a) of the revised title.

In subsection (c), the words ''the requirements described in'' are added for clarity.

In subsection (c)(1), the text of 49 App.:1371(n)(6) is omitted as surplus because of 49:322(a).

In subsection (c)(2), the word ''amended'' is added for consistency in the revised title.

§ 41105. Transfers of certificates

(a) GENERAL.—A certificate issued under section 41102 of this title may be transferred only when the Secretary of Transportation approves the transfer as being consistent with the public interest.

(b) CERTIFICATION TO CONGRESS.—When a certificate is transferred, the Secretary shall certify to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that the transfer is consistent with the public interest. The Secretary shall include with the certification a report analyzing the effects of the transfer on—

(1) the viability of each carrier involved in the transfer;

(2) competition in the domestic airline industry; and

(3) the trade position of the United States in the international air transportation market.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1121; Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41105(a)	49 App.:1371(h)(1).	Aug. 23, 1958, Pub. L. 85–726, § 401(h)(1), 72 Stat. 756; Nov. 5, 1990, Pub. L. 101–508, § 9127(1), 104 Stat. 1388–371.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41105(b)	49 App.:1371(h)(2), (3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(h)(2), (3); added Nov. 5, 1990, Pub. L. 101–508, § 9127(2), 104 Stat. 1388–371.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41111 of this title.

§ 41106. Airlift service

(a) GENERAL.—(1) Except as provided in subsection (b) of this section, the transportation of passengers or property by transport category aircraft in interstate air transportation obtained by the Secretary of Defense or the Secretary of a military department through a contract of at least 31 days for airlift service in the United States may be provided only by an air carrier that—

(A) has aircraft in the civil reserve air fleet or offers to place the aircraft in that fleet; and

(B) holds a certificate issued under section 41102 of this title.

(2) The Secretary of Transportation shall act as expeditiously as possible on an application for a certificate under section 41102 of this title to provide airlift service.

(b) EXCEPTION.—When the Secretary of Defense decides that no air carrier holding a certificate under section 41102 is capable of providing, and willing to provide, the airlift service, the Secretary of Defense may make a contract to provide the service with an air carrier not having a certificate.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1121.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41106	49 App.:1371(*o*).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(*o*); added July 12, 1976, Pub. L. 94–353, § 18(a), 90 Stat. 883.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In subsection (a), before clause (1), the word ''passengers'' is substituted for ''persons'' for consistency in the revised title. The words ''Secretary of Defense'' are substituted for ''Department of Defense'' because of 10:113(a). The words ''an air carrier'' are substituted for ''carriers'' for clarity.

In subsection (b), the words ''to provide the service'' are added for clarity.

§ 41107. Transportation of mail

When the United States Postal Service finds that the needs of the Postal Service require the transportation of mail by aircraft in foreign air transportation or between places in Alaska, in addition to the transportation of mail authorized under certificates in effect, the Postal Service shall certify that finding to the Secretary of Transportation with a statement about the additional transportation and facilities necessary to provide the additional transportation. A copy of each certification and statement shall be posted for at least 20 days in the office of the Secretary. After notice and an opportunity for a hearing, the Secretary shall issue a new certificate under section 41102 of this title, or amend or modify an existing certificate under section 41110(a)(2)(A) of this title, to provide the additional transportation and facilities if the Secretary finds the additional transportation is required by the public convenience and necessity.

(Pub. L. 103–272, §§1(e), 4(k)(1), July 5, 1994, 108 Stat. 1121, 1370.)

AMENDMENT OF SECTION

Pub. L. 103–272, § 4(k)(1), July 5, 1994, 108 Stat. 1370, provided that, effective Jan. 1, 1999, this section is amended by substituting ''transportation'' for ''transportation or between places in Alaska''.

HISTORICAL AND REVISION NOTES

PUB. L. 103–272, §1(e)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41107	49 App.:1371(m).	Aug. 23, 1958, Pub. L. 85–726, §401(m), 72 Stat. 757.
	49 App.:1551(a)(4)(A) (related to 49 App.:1371(m)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(A) (related to §401(m)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(c), (e), 98 Stat. 1703, 1704.

The words ''from time to time'' are omitted as surplus. The words ''United States Postal Service'' and ''Postal Service'' are substituted for ''Postmaster General'' in section 401(m) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 757) because of sections 4(a) and 6(*o*) of the Postal Reorganization Act (Public Law 91–375, 84 Stat. 773, 783). The words ''in foreign air transportation or between places in Alaska'' are substituted for ''between any points within the United States or between the United States and foreign countries'' for consistency in the revised title and because 49 App.:1551(a)(4)(A) provides that 49 App.:1371(m) no longer applies to interstate or overseas air transportation (except transportation of mail between 2 places in Alaska). In addition, Congress did not intend to maintain the regulation of domestic air transportation of mail. See section 40102(a) of the revised title defining ''air transportation'' to mean interstate or foreign air transportation or the transportation of mail by aircraft. The word ''currently'' is omitted as surplus. The words ''opportunity for a'' are added for consistency in the revised title and with other titles of the United States Code. The words ''or certificates'' are omitted as surplus because of 1:1. The word ''modify'' is added for consistency in the revised title.

PUB. L. 103–272, § 4(k)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41107	49 App.:1551(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(8); added Oct. 4, 1984, Pub. L. 98–443, §3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, §3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(f) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(*l*) and (m) and 1375(b)–(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901–41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 4(k) of Pub. L. 103–272 provided that the amendments made by that section [amending this section and sections 41901, 41902, and 41903 of this title] are effective Jan. 1, 1999.

§ 41108. Applications for certificates

(a) FORM, CONTENTS, AND PROOF OF SERVICE.—To be issued a certificate of public convenience and necessity under section 41102 of this title, a citizen of the United States must apply to the Secretary of Transportation. The application must—

(1) be in the form and contain information required by regulations of the Secretary; and

(2) be accompanied by proof of service on interested persons as required by regulations of the Secretary and on each community that may be affected by the issuance of the certificate.

(b) NOTICE, RESPONSE, AND ACTIONS ON APPLICATIONS.—(1) When an application is filed, the Secretary shall post a notice of the application in the office of the Secretary and give notice of the application to other persons as required by regulations of the Secretary. An interested person may file a response with the Secretary opposing or supporting the issuance of the certificate. Not later than 90 days after the application is filed, the Secretary shall—

(A) provide an opportunity for a public hearing on the application;

(B) begin the procedure under section 41111 of this title; or

(C) dismiss the application on its merits.

(2) An order of dismissal issued by the Secretary under paragraph (1)(C) of this subsection

is a final order and may be reviewed judicially under section 46110 of this title.

(3) If the Secretary provides an opportunity for a hearing under paragraph (1)(A) of this subsection, an initial or recommended decision shall be issued not later than 150 days after the date the Secretary provides the opportunity. The Secretary shall issue a final order on the application not later than 90 days after the decision is issued. However, if the Secretary does not act within the 90-day period, the initial or recommended decision on an application to provide—

(A) interstate air transportation is a final order and may be reviewed judicially under section 46110 of this title; and

(B) foreign air transportation shall be submitted to the President under section 41307 of this title.

(4) If the Secretary acts under paragraph (1)(B) of this subsection, the Secretary shall issue a final order on the application not later than 180 days after beginning the procedure on the application.

(5) If a citizen applying for a certificate does not meet the procedural schedule adopted by the Secretary in a proceeding, the Secretary may extend the period for acting under paragraphs (3) and (4) of this subsection by a period equal to the period of delay caused by the citizen. In addition to an extension under this paragraph, an initial or recommended decision under paragraph (3) of this subsection may be delayed for not more than 30 days in extraordinary circumstances.

(c) PROOF REQUIREMENTS.—(1) A citizen applying for a certificate must prove that the citizen is fit, willing, and able to provide the transportation referred to in section 41102 of this title and to comply with this part.

(2) A person opposing a citizen applying for a certificate must prove that the transportation referred to in section 41102(b)(2) of this title is not consistent with the public convenience and necessity. The transportation is deemed to be consistent with the public convenience and necessity unless the Secretary finds, by a preponderance of the evidence, that the transportation is not consistent with the public convenience and necessity.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1121.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41108(a)	49 App.:1371(b).	Aug. 23, 1958, Pub. L. 85–726, §401(b), 72 Stat. 754; Oct. 24, 1978, Pub. L. 95–504, §6, 92 Stat. 1710.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41108(b)	49 App.:1371(c).	Aug. 23, 1958, Pub. L. 85–726, 401(c), 72 Stat. 754; restated Oct. 24, 1978, Pub. L. 95–504, §7(a), 92 Stat. 1711.
	49 App.:1551(b)(1)(E).	
41108(c)	49 App.:1371(d)(9).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(d)(9); added Oct. 24, 1978, Pub. L. 95–504, §14, 92 Stat. 1719.
	49 App.:1551(b)(1)(E).	

In subsection (a), the words ''of public convenience and necessity under section 41102 of this title'' are added for clarity.

In subsection (b)(1), before clause (A), the words ''give due notice thereof to the public by'' are omitted as surplus. The word ''response'' is substituted for ''protest or memorandum'' to eliminate unnecessary words. The words ''requested by such application'' are omitted as surplus. Clause (A) is substituted for 49 App.:1371(c)(1)(A) for clarity and consistency. Clause (B) is substituted for 49 App.:1371(c)(1)(B) to eliminate unnecessary words.

In subsection (b)(2), the words ''An order of dismissal issued by the Secretary under paragraph (1)(C) of this subsection'' are substituted for ''Any order of dismissal of an application issued by the Board without setting such application for a hearing or beginning to make a determination with respect to such application under such simplified procedures'' to eliminate unnecessary words.

In subsection (b)(3), before clause (A), the words ''If the Secretary provides an opportunity for a hearing under paragraph (1)(A) of this subsection'' are substituted for ''If the Board determines that any application should be set for a public hearing under clause (A) of the second sentence of paragraph (1) of this subsection'' to eliminate unnecessary words. The words ''provides the opportunity'' are substituted for ''of such determination'' for clarity. The words ''for a certificate'' are omitted as surplus. The words ''to provide'' are substituted for ''to engage in'' for consistency in the revised title.

In subsection (b)(4), the words ''If the Secretary acts under paragraph (1)(B) of this subsection'' are added for clarity. The words ''after beginning the procedure on the application'' are substituted for ''after the Board begins to make a determination with respect to an application under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section'' to eliminate unnecessary words.

In subsection (b)(5), the word ''particular'' is omitted as surplus. The words ''by order'' are omitted as surplus because of 5:ch. 5, subch. II.

In subsection (c)(1), the words ''In any determination as to whether or not'' are omitted as surplus. The word ''provide'' is substituted for ''perform'' for consistency in the revised title. The word ''properly'' is omitted as surplus. The word ''comply'' is substituted for ''conform'' for consistency in the revised title.

In subsection (c)(2), the words ''In any determination as to whether'' are omitted as surplus. The reference is to section 41102(b)(2), rather than 41102(a), of the revised title to reflect the termination of authority under 49 App.:1551(a)(1)(A).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41102, 41109, 41111 of this title.

§ 41109. Terms of certificates

(a) GENERAL.—(1) Each certificate issued under section 41102 of this title shall specify the type of transportation to be provided.

(2) The Secretary of Transportation—

(A) may prescribe terms for providing air transportation under the certificate that the Secretary finds may be required in the public interest; but

(B) may not prescribe a term preventing an air carrier from adding or changing schedules, equipment, accommodations, and facilities for providing the authorized transportation to satisfy business development and public demand.

(3) A certificate issued under section 41102 of this title to provide foreign air transportation

shall specify the places between which the air carrier is authorized to provide the transportation only to the extent the Secretary considers practicable and otherwise only shall specify each general route to be followed. The Secretary shall authorize an air carrier holding a certificate to provide foreign air transportation to handle and transport mail of countries other than the United States.

(4) A certificate issued under section 41102 of this title to provide foreign charter air transportation shall specify the places between which the air carrier is authorized to provide the transportation only to the extent the Secretary considers practicable and otherwise only shall specify each geographical area in which, or between which, the transportation may be provided.

(5) As prescribed by regulation by the Secretary, an air carrier other than a charter air carrier may provide charter trips or other special services without regard to the places named or type of transportation specified in its certificate.

(b) MODIFYING TERMS.—(1) An air carrier may file with the Secretary an application to modify any term of its certificate issued under section 41102 of this title to provide interstate or foreign air transportation. Not later than 60 days after an application is filed, the Secretary shall—

(A) provide the carrier an opportunity for an oral evidentiary hearing on the record; or

(B) begin to consider the application under section 41111 of this title.

(2) The Secretary shall modify each term the Secretary finds to be inconsistent with the criteria under section 40101(a) and (b) of this title.

(3) An application under this subsection may not be dismissed under section 41108(b)(1)(C) of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1123; Pub. L. 104–287, § 5(70), Oct. 11, 1996, 110 Stat. 3396.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41109(a)(1) ..	49 App.:1371(e)(1) (words before semicolon).	Aug. 23, 1958, Pub. L. 85–726, § 401(e)(1), 72 Stat. 755; restated July 10, 1962, Pub. L. 87–528, § 3, 76 Stat. 143.
	49 App.:1551(a)(1)(C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(1)(C); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1744.
41109(a)(2) ..	49 App.:1371(e)(1) (words after semicolon).	
	49 App.:1371(e)(4).	Aug. 23, 1958, Pub. L. 85–726, § 401(e)(3), (4), 72 Stat. 755; restated July 10, 1962, Pub. L. 87–528, § 3, 76 Stat. 143; Oct. 24, 1978, Pub. L. 95–504, § 15(a), (b), 92 Stat. 1719.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41109(a)(3) ..	49 App.:1371(e)(2).	Aug. 23, 1958, Pub. L. 85–726, § 401(e)(2), 72 Stat. 755; restated July 10, 1962, Pub. L. 87–528, § 3, 76 Stat. 143; Feb. 15, 1980, Pub. L. 96–192, § 5, 94 Stat. 37.
	49 App.:1551(b)(1)(E).	
41109(a)(4) ..	49 App.:1371(e)(3).	
	49 App.:1551(b)(1)(E).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41109(b)	49 App.:1371(e)(7)(B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(e)(7)(B); added Oct. 24, 1978, Pub. L. 95–504, § 16, 92 Stat. 1720.
	49 App.:1551(b)(1)(E).	

In subsection (a)(1), the text of 49 App.:1371(e)(1) (words before semicolon related to terminal and intermediate points) is omitted as obsolete because of 49 App.:1551(a)(1)(C) and because interstate and overseas air transportation is no longer regulated. The words ''type of'' are added for clarity. The word ''provided'' is substituted for ''rendered'' for consistency in the revised title.

In subsection (a)(2), the words before clause (A) are added for clarity. Clause (A) is substituted for 49 App.:1371(e)(1) (words after semicolon) for clarity and consistency and to eliminate unnecessary words. In clause (B), the words ''may not prescribe a term preventing'' are substituted for ''No term, condition, or limitation of a certificate shall restrict the right'' for clarity and consistency. The word ''providing'' is substituted for ''performing'' for consistency in the revised title.

In subsection (a)(3) and (4), the word ''places'' is substituted for ''points'', and the word ''provide'' is substituted for ''engage in'', for consistency in the revised title. The words ''terminal and intermediate'' are omitted as surplus. The words ''between which the air carrier is authorized to provide the transportation'' are added for clarity and consistency.

In subsection (a)(3), the words ''or routes'' are omitted because of 1:1. The words ''The Secretary'' are added for clarity.

In subsection (a)(4), the words ''or areas'' are omitted because of 1:1.

In subsection (b), the words ''condition, or limitation'' are omitted as being included in ''term''.

In subsection (b)(1), before clause (A), the word ''modify'' is substituted for ''removal or modification'' to eliminate unnecessary words. The word ''provide'' is substituted for ''engage in'' for consistency in the revised title. In clause (A), the words ''provide the carrier an opportunity'' are substituted for ''set such application'' for consistency in the revised title and with other titles of the United States Code. In clause (B), the words ''the simplified procedures established by the Board in regulations pursuant to'' are omitted as surplus.

PUB. L. 104–287

This amends 49:41109(a) to clarify the restatement of 49 App.:1371(e) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1123).

AMENDMENTS

1996—Subsec. (a)(5). Pub. L. 104–287 added par. (5).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

§ 41110. Effective periods and amendments, modifications, suspensions, and revocations of certificates

(a) GENERAL.—(1) Each certificate issued under section 41102 of this title is effective from the date specified in it and remains in effect until—

(A) the Secretary of Transportation suspends or revokes the certificate under this section;

(B) the end of the period the Secretary specifies for an air carrier having a certificate of

temporary authority issued under section 41102(a)(2) of this title; or

(C) the Secretary certifies that transportation is no longer being provided under a certificate.

(2) On application or on the initiative of the Secretary and after notice and an opportunity for a hearing or, except as provided in paragraph (4) of this subsection, under section 41111 of this title, the Secretary may—

(A) amend, modify, or suspend any part of a certificate if the Secretary finds the public convenience and necessity require amendment, modification, or suspension; and

(B) revoke any part of a certificate if the Secretary finds that the holder of the certificate intentionally does not comply with this chapter, sections 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, and 41731–41742, chapter 419, subchapter II of chapter 421, and section 46301(b) of this title, a regulation or order of the Secretary under any of those provisions, or a term of its certificate.

(3) The Secretary may revoke a certificate under paragraph (2)(B) of this subsection only if the holder of the certificate does not comply, within a reasonable time the Secretary specifies, with an order to the holder requiring compliance.

(4) A certificate to provide foreign air transportation may not be amended, modified, suspended, or revoked under section 41111 of this title if the holder of the certificate requests an oral evidentiary hearing or the Secretary finds, under all the facts and circumstances, that the hearing is required in the public interest.

(b) ALL-CARGO AIR TRANSPORTATION.—The Secretary may order that a certificate issued under section 41103 of this title authorizing all-cargo air transportation is ineffective if, after notice and an opportunity for a hearing, the Secretary finds that the transportation is not provided to the minimum extent specified by the Secretary.

(c) FOREIGN AIR TRANSPORTATION.—(1) Notwithstanding subsection (a)(2)–(4) of this section, after notice and a reasonable opportunity for the affected air carrier to present its views, but without a hearing, the Secretary may suspend or revoke the authority of an air carrier to provide foreign air transportation to a place under a certificate issued under section 41102 of this title if the carrier—

(A) notifies the Secretary, under section 41734(a) of this title or a regulation of the Secretary, that it intends to suspend all transportation to that place; or

(B) does not provide regularly scheduled transportation to the place for 90 days immediately before the date the Secretary notifies the carrier of the action the Secretary proposes.

(2) Paragraph (1)(B) of this subsection does not apply to a place provided seasonal transportation comparable to the transportation provided during the prior year.

(d) TEMPORARY CERTIFICATES.—On application or on the initiative of the Secretary, the Secretary may—

(1) review the performance of an air carrier issued a certificate under section 41102(c) of this title on the basis that the air carrier will provide innovative or low-priced air transportation under the certificate; and

(2) amend, modify, suspend, or revoke the certificate or authority under subsection (a)(2) or (c) of this section if the air carrier has not provided, or is not providing, the transportation.

(e) CONTINUING REQUIREMENTS.—(1) To hold a certificate issued under section 41102 of this title, an air carrier must continue to be fit, willing, and able to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary.

(2) After notice and an opportunity for a hearing, the Secretary shall amend, modify, suspend, or revoke any part of a certificate issued under section 41102 of this title if the Secretary finds that the air carrier—

(A) is not fit, willing, and able to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary; or

(B) does not file reports necessary for the Secretary to decide if the carrier is complying with the requirements of clause (A) of this paragraph.

(f) ILLEGAL IMPORTATION OF CONTROLLED SUBSTANCES.—The Secretary—

(1) in consultation with appropriate departments, agencies, and instrumentalities of the United States Government, shall reexamine immediately the fitness of an air carrier that—

(A) violates the laws and regulations of the United States related to the illegal importation of a controlled substance; or

(B) does not adopt available measures to prevent the illegal importation of a controlled substance into the United States on its aircraft; and

(2) when appropriate, shall amend, modify, suspend, or revoke the certificate of the carrier issued under this chapter.

(g) RESPONSES.—An interested person may file a response with the Secretary opposing or supporting the amendment, modification, suspension, or revocation of a certificate under subsection (a) of this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1123; Pub. L. 103–429, §6(50), Oct. 31, 1994, 108 Stat. 4384.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41110(a)(1) ..	49 App.:1371(f).	Aug. 23, 1958, Pub. L. 85–726, §401(f), 72 Stat. 755; Oct. 24, 1978, Pub. L. 95–504, §§10(b), 17, 92 Stat. 1716, 1720.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41110(a)(2)–(4).	49 App.:1371(g)(1).	Aug. 23, 1958, Pub. L. 85–726, §401(g), 72 Stat. 756; Oct. 24, 1978, Pub. L. 95–504, §18, 92 Stat. 1720; restated Feb. 15, 1980, Pub. L. 96–192, §6, 94 Stat 37.
	49 App.:1551(b)(1)(E).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41110(b)	49 App.:1388(b)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §418(b)(4); added Nov. 9, 1977, Pub. L. 95–163, §17(a), 91 Stat. 1285.
	49 App.:1551(b)(1)(E).	
41110(c)	49 App.:1371(g)(3).	
	49 App.:1551(b)(1)(E).	
41110(d)	49 App.:1371(d)(8) (last sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(d)(8) (last sentence); added Oct. 24, 1978, Pub. L. 95–504, §13, 92 Stat. 1719.
	49 App.:1551(a)(1)(B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(1)(B); added Oct. 24, 1978, Pub. L. 95–504, §40(a), 92 Stat. 1744.
	49 App.:1551(b)(1)(E).	
41110(e)	49 App.:1371(r) (related to certificate).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(r) (related to certificate); added Oct. 24, 1978, Pub. L. 95–504, §20(d)(1), 92 Stat. 1722.
	49 App.:1551(b)(1)(E).	
41110(f)	49 App.:1371a (related to certificate).	Aug. 15, 1985, Pub. L. 99–88, §100 (1st complete par. related to certificate on p. 352), 99 Stat. 352.
41110(g)	49 App.:1371(g)(2).	
	49 App.:1551(b)(1)(E).	

In subsection (a)(1)(C), the words ''transportation is no longer being provided under a certificate'' are substituted for ''operation thereunder has ceased'' and ''operations thereunder have ceased'' for clarity and consistency.

In subsections (a)(2) and (e), the words ''opportunity for a'' are added for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2), before clause (A), the word ''application'' is substituted for ''petition or complaint'' for consistency in the revised title and with other titles of the Code and to eliminate unnecessary words. The words ''except as provided in paragraph (4) of this subsection'' are added for clarity. The words ''the simplified procedures under'' are omitted as surplus. In clause (A), the word ''alter'' is omitted as surplus. In clause (B), the reference to 49 App.:1372 is omitted from the cross-references of ''this subchapter'' because 49 App.:1372 is concerned with foreign air carrier permits and not relevant to air carrier certificate revocation. The word ''rule'' is omitted as being synonymous with ''regulation''. The words ''condition, or limitation'' are omitted as surplus.

In subsection (a)(3), the words ''to the provision, or to the order (other than an order issued in accordance with this sentence), rule, regulation, term, condition, or limitation found by the Board to have been violated'' are omitted as surplus.

In subsection (a)(4), the word ''provide'' is substituted for ''engage in'' for consistency in the revised title. The words ''altered'' and ''the simplified procedures of'' are omitted as surplus.

In subsection (b), the words ''to the extent of such service'' are omitted as surplus. The word ''provided'' is substituted for ''performed'' for consistency in the revised title.

In subsection (c)(1), the word ''place'' is substituted for ''point'' for consistency in the revised title. In clause (A), the cross-reference is to section 41734(a) of the revised title for clarity because 49 App.:1371(j) is obsolete. The comparable provision is 49 App.:1389(b)(2), restated as section 41734(a). The words ''provided by that carrier'' are omitted as surplus. In clause (B), the word ''immediately'' is added for clarity.

In subsection (d)(2), the words ''alter'' and ''the procedures prescribed in'' are omitted as surplus.

In subsections (e) and (f)(2), the word ''amend'' is added for consistency.

In subsection (e), before clause (1), the words ''The requirement that each applicant for a certificate or any other authority . . . shall be a continuing requirement applicable to each such air carrier with respect to the transportation authorized by the Board'' are omitted as surplus. The words ''by order'' are omitted as unnecessary because of 5:ch. 5, subch. II. In clause (1), the word ''provide'' is substituted for ''perform'' for consistency in the revised title. The word ''properly'' is omitted as surplus. The word ''comply'' is substituted for ''conform to'' for consistency in the revised title. The word ''rules'' is omitted as being synonymous with ''regulations''. The word ''requirements'' is omitted as surplus.

In subsection (f), before clause (1), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The words ''on and after August 15, 1985'' are omitted as executed. In clause (1), before subclause (A), the words ''law enforcement and other'' are omitted as surplus. The words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''agencies'' for consistency in the revised title and with other titles of the Code. The words ''an air carrier'' are substituted for ''any carrier'' for clarity. In clause (2), the words ''of public convenience and necessity'' are omitted as surplus. The words ''issued under this chapter'' are added for clarity.

In subsection (g), the word ''response'' is substituted for ''protest or memorandum'' to eliminate unnecessary words. The word ''alteration'' is omitted as surplus.

PUB. L. 103–429

This amends 49:41110(e) to clarify the restatement of 49 App.:1371(r) (related to certificate) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1124).

AMENDMENTS

1994—Subsec. (e). Pub. L. 103–429 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''After notice and an opportunity for a hearing, the Secretary shall amend, modify, suspend, or revoke any part of a certificate issued under section 41102 of this title if the Secretary finds that the air carrier—

''(1) is not fit, willing, and able to continue to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary; or

''(2) does not file reports necessary for the Secretary to decide if the carrier is complying with the requirements of clause (1) of this subsection.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41104, 41107, 41111 of this title.

§ 41111. Simplified procedure to apply for, amend, modify, suspend, and transfer certificates

(a) GENERAL REQUIREMENTS.—(1) The Secretary of Transportation shall prescribe regulations that simplify the procedure for—

(A) acting on an application for a certificate to provide air transportation under section 41102 of this title; and

(B) amending, modifying, suspending, or transferring any part of that certificate under section 41105 or 41110(a) or (c) of this title.

(2) Regulations under this section shall provide for notice and an opportunity for each interested person to file appropriate written evidence and argument. An oral evidentiary hearing is not required to be provided under this section.

(b) WHEN SIMPLIFIED PROCEDURE USED.—The Secretary may use the simplified procedure to act on an application for a certificate to provide air transportation under section 41102 of this title, or to amend, modify, suspend, or transfer any part of that certificate under section 41105 or 41110(a) or (c) of this title, when the Secretary decides the use of the procedure is in the public interest.

(c) CONTENTS.—(1) To the extent the Secretary finds practicable, regulations under this section shall include each standard the Secretary will apply when—

(A) deciding whether to use the simplified procedure; and

(B) making a decision on an action in which the procedure is used.

(2) The regulations may provide that written evidence and argument may be filed under section 41108(b) of this title as a part of a response opposing or supporting the issuance of a certificate.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1125.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41111(a)	49 App.:1371(p)(1) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(p); added Oct. 24, 1978, Pub. L. 95–504, §21(a)(1), 92 Stat. 1723.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41111(b)	49 App.:1371(p)(2) (1st sentence).	
	49 App.:1551(b)(1)(E).	
41111(c)	49 App.:1371(p)(1) (last sentence), (2) (last sentence).	
	49 App.:1551(b)(1)(E).	

In this section, the words ''acting on'' and ''act on'' are substituted for ''disposition of'' for consistency.

In subsection (a)(1)(A), the word ''provide'' is substituted for ''engage in'' for consistency in the revised title.

In subsection (a)(1)(B), the word ''alteration'' is omitted as surplus.

In subsection (a)(2), the word ''adequate'' is omitted as surplus.

In subsection (b), the words ''to act on an application for a certificate to provide air transportation under section 41102 of this title, or to amend, modify, suspend, or transfer any part of that certificate under section 41105 or 41110(a) or (c) of this title'' are added for clarity.

In subsection (c)(2), the words ''by such person'' are omitted as surplus. The words ''a response opposing or supporting the issuance of a certificate'' are substituted for ''a protest or memorandum filed with respect to such application'' for consistency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41108, 41109, 41110 of this title.

§ 41112. Liability insurance and financial responsibility

(a) LIABILITY INSURANCE.—The Secretary of Transportation may issue a certificate to a citizen of the United States to provide air transportation as an air carrier under section 41102 of this title only if the citizen complies with regulations and orders of the Secretary governing the filing of an insurance policy or self-insurance plan approved by the Secretary. The policy or plan must be sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an individual or for loss of, or damage to, property of others, resulting from the operation or maintenance of the aircraft under the certificate. A certificate does not remain in effect unless the carrier complies with this subsection.

(b) FINANCIAL RESPONSIBILITY.—To protect passengers and shippers using an aircraft operated by an air carrier issued a certificate under section 41102 of this title, the Secretary may require the carrier to file a performance bond or equivalent security in the amount and on terms the Secretary prescribes. The bond or security must be sufficient to ensure the carrier adequately will pay the passengers and shippers when the transportation the carrier agrees to provide is not provided. The Secretary shall prescribe the amounts to be paid under this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1126.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41112	49 App.:1371(q).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(q); added Oct. 24, 1978, Pub. L. 95–504, §20(d)(1), 92 Stat. 1722.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In subsection (a), the words ''citizen of the United States'' and ''citizen'' are substituted for ''applicant for such certificate or the air carrier'' for clarity and consistency because only a citizen of the United States may be an ''air carrier'' as defined in section 40102(a) of the revised title and receive a certificate. The words ''as the case may be'' are omitted as surplus. The words ''to provide air transportation as an air carrier under section 41102 of this title'' are added for clarity. The words ''approved by the Secretary'' are substituted for ''governing the filing and approval . . . in the amount prescribed by the Board'' to eliminate unnecessary words. The words ''The policy or plan must be sufficient to pay'' are substituted for ''which are conditioned to pay . . . amounts'' for clarity. The words ''for which such applicant or such air carrier may become liable for'' are omitted as surplus.

In subsection (b), the word ''passengers'' is substituted for ''travelers'' for consistency in this chapter. The words ''issued . . . under section 41102 of this title'' are added for clarity. The word ''arrangement'' is omitted as surplus. The word ''provide'' is substituted for ''perform'' for consistency in the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41104 of this title.

§ 41113. Plans to address needs of families of passengers involved in aircraft accidents

(a) SUBMISSION OF PLANS.—Not later than 6 months after the date of the enactment of this section, each air carrier holding a certificate of public convenience and necessity under section 41102 of this title shall submit to the Secretary and the Chairman of the National Transpor-

tation Safety Board a plan for addressing the needs of the families of passengers involved in any aircraft accident involving an aircraft of the air carrier and resulting in a major loss of life.

(b) CONTENTS OF PLANS.—A plan to be submitted by an air carrier under subsection (a) shall include, at a minimum, the following:

(1) A plan for publicizing a reliable, toll-free telephone number, and for providing staff, to handle calls from the families of the passengers.

(2) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, either by utilizing the services of the organization designated for the accident under section 1136(a)(2) of this title or the services of other suitably trained individuals.

(3) An assurance that the notice described in paragraph (2) will be provided to the family of a passenger as soon as the air carrier has verified that the passenger was aboard the aircraft (whether or not the names of all of the passengers have been verified) and, to the extent practicable, in person.

(4) An assurance that the air carrier will provide to the director of family support services designated for the accident under section 1136(a)(1) of this title, and to the organization designated for the accident under section 1136(a)(2) of this title, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the aircraft (whether or not such names have been verified), and will periodically update the list.

(5) An assurance that the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within the control of the air carrier.

(6) An assurance that if requested by the family of a passenger, any possession of the passenger within the control of the air carrier (regardless of its condition) will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation.

(7) An assurance that any unclaimed possession of a passenger within the control of the air carrier will be retained by the air carrier for at least 18 months.

(8) An assurance that the family of each passenger will be consulted about construction by the air carrier of any monument to the passengers, including any inscription on the monument.

(9) An assurance that the treatment of the families of nonrevenue passengers (and any other victim of the accident) will be the same as the treatment of the families of revenue passengers.

(10) An assurance that the air carrier will work with any organization designated under section 1136(a)(2) of this title on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following each accident.

(11) An assurance that the air carrier will provide reasonable compensation to any organization designated under section 1136(a)(2) of this title for services provided by the organization.

(12) An assurance that the air carrier will assist the family of a passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

(13) An assurance that the air carrier will commit sufficient resources to carry out the plan.

(c) CERTIFICATE REQUIREMENT.—After the date that is 6 months after the date of the enactment of this section, the Secretary may not approve an application for a certificate of public convenience and necessity under section 41102 of this title unless the applicant has included as part of such application a plan that meets the requirements of subsection (b).

(d) LIMITATION ON LIABILITY.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the air carrier in preparing or providing a passenger list pursuant to a plan submitted by the air carrier under subsection (b), unless such liability was caused by conduct of the air carrier which was grossly negligent or which constituted intentional misconduct.

(e) AIRCRAFT ACCIDENT AND PASSENGER DEFINED.—In this section, the terms ''aircraft accident'' and ''passenger'' have the meanings such terms have in section 1136 of this title.

(Added Pub. L. 104–264, title VII, § 703(a), Oct. 9, 1996, 110 Stat. 3267.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (a) and (c), is the date of enactment of Pub. L. 104–264, which was approved Oct. 9, 1996.

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

ESTABLISHMENT OF TASK FORCE

Section 704 of Pub. L. 104–264 provided that:

''(a) ESTABLISHMENT.—The Secretary of Transportation, in cooperation with the National Transportation Safety Board, the Federal Emergency Management Agency, the American Red Cross, air carriers, and families which have been involved in aircraft accidents shall establish a task force consisting of representatives of such entities and families, representatives of air carrier employees, and representatives of such other entities as the Secretary considers appropriate.

''(b) GUIDELINES AND RECOMMENDATIONS.—The task force established pursuant to subsection (a) shall develop—

''(1) guidelines to assist air carriers in responding to aircraft accidents;

''(2) recommendations on methods to ensure that attorneys and representatives of media organizations do not intrude on the privacy of families of passengers involved in an aircraft accident;

''(3) recommendations on methods to ensure that the families of passengers involved in an aircraft accident who are not citizens of the United States receive appropriate assistance;

''(4) recommendations on methods to ensure that State mental health licensing laws do not act to pre-

vent out-of-state mental health workers from working at the site of an aircraft accident or other related sites;

''(5) recommendations on the extent to which military experts and facilities can be used to aid in the identification of the remains of passengers involved in an aircraft accident; and

''(6) recommendations on methods to improve the timeliness of the notification provided by air carriers to the families of passengers involved in an aircraft accident, including—

''(A) an analysis of the steps that air carriers would have to take to ensure that an accurate list of passengers on board the aircraft would be available within 1 hour of the accident and an analysis of such steps to ensure that such list would be available within 3 hours of the accident;

''(B) an analysis of the added costs to air carriers and travel agents that would result if air carriers were required to take the steps described in subparagraph (A);

''(C) an analysis of any inconvenience to passengers, including flight delays, that would result if air carriers were required to take the steps described in subparagraph (A); and

''(D) an analysis of the implications for personal privacy that would result if air carriers were required to take the steps described in subparagraph (A).

''(c) REPORT.—Not later than 1 year after the date of the enactment of this Act [Oct. 9, 1996], the Secretary shall transmit to Congress a report containing the model plan and recommendations developed by the task force under subsection (b).''

LIMITATION ON STATUTORY CONSTRUCTION

Section 705 of title VII of Pub. L. 104–264 provided that: ''Nothing in this title [enacting this section and section 1136 of this title, amending section 1155 of this title, and enacting provisions set out as notes under this section and section 40101 of this title] or any amendment made by this title may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident.''

CHAPTER 413—FOREIGN AIR TRANSPORTATION

Sec.
41301. Requirement for a permit.
41302. Permits of foreign air carriers.
41303. Transfers of permits.
41304. Effective periods and amendments, modifications, suspensions, and revocations of permits.
41305. Applications for permits.
41306. Simplified procedure to apply for, amend, modify, and suspend permits.
41307. Presidential review of actions about foreign air transportation.
41308. Exemption from the antitrust laws.
41309. Cooperative agreements and requests.
41310. Discriminatory practices.
41311. Gambling restrictions.
41312. Ending or suspending foreign air transportation.
41313. Plans to address needs of families of passengers involved in foreign air carrier accidents.

AMENDMENTS

1997—Pub. L. 105–148, §1(b), Dec. 16, 1997, 111 Stat. 2683, added item 41313.

1994—Pub. L. 103–429, §6(51)(B), Oct. 31, 1994, 108 Stat. 4385, added item 41312.

Pub. L. 103–305, title II, §205(a)(2), Aug. 23, 1994, 108 Stat. 1583, added item 41311.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 40109, 46301 of this title; title 39 section 5402.

§ 41301. Requirement for a permit

A foreign air carrier may provide foreign air transportation only if the foreign air carrier holds a permit issued under this chapter authorizing the foreign air transportation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1126.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41301	49 App.:1372(a).	Aug. 23, 1958, Pub. L. 85–726, §402(a), 72 Stat. 757.

The word ''provide'' is substituted for ''engage in'' for consistency in the revised title. The word ''holds'' is substituted for ''there is in force'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41703 of this title.

§ 41302. Permits of foreign air carriers

The Secretary of Transportation may issue a permit to a person (except a citizen of the United States) authorizing the person to provide foreign air transportation as a foreign air carrier if the Secretary finds that—

(1) the person is fit, willing, and able to provide the foreign air transportation to be authorized by the permit and to comply with this part and regulations of the Secretary; and

(2)(A) the person is qualified, and has been designated by the government of its country, to provide the foreign air transportation under an agreement with the United States Government; or

(B) the foreign air transportation to be provided under the permit will be in the public interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1126.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41302	49 App.:1372(b).	Aug. 23, 1958, Pub. L. 85–726, §402(b), 72 Stat. 758; restated Feb. 15, 1980, Pub. L. 96–192, §7, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In this section, before clause (1), the words ''person (except a citizen of the United States)'' and ''person'' are substituted for ''applicant'' for clarity and consistency because only a person other than a United States citizen may be a ''foreign air carrier'' as defined in section 40102(a) of the revised title. In clauses (1) and (2), the word ''provide'' is substituted for ''perform'' for consistency in the revised title. In clause (1), the word ''properly'' is omitted as surplus. The word ''comply'' is substituted for ''conform'' for consistency in the revised title. The word ''rules'' is omitted as being synonymous with ''regulations''. The word ''requirements'' is omitted as surplus. In clause (2)(A), the words ''government of its country'' are substituted for ''its gov-

ernment'' for consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41303, 41304, 41305, 41306, 41307, 41310, 41313, 41703, 41709, 44901, 46316 of this title.

§ 41303. Transfers of permits

A permit issued under section 41302 of this title may be transferred only when the Secretary of Transportation approves the transfer because the transfer is in the public interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1127.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41303	49 App.:1372(g).	Aug. 23, 1958, Pub. L. 85–726, § 402(g), 72 Stat. 758.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41310 of this title.

§ 41304. Effective periods and amendments, modifications, suspensions, and revocations of permits

(a) GENERAL.—The Secretary of Transportation may prescribe the period during which a permit issued under section 41302 of this title is in effect. After notice and an opportunity for a hearing, the Secretary may amend, modify, suspend, or revoke the permit if the Secretary finds that action to be in the public interest.

(b) SUSPENSIONS AND RESTRICTIONS.—Without a hearing, but subject to the approval of the President, the Secretary—

(1) may suspend summarily the permits of foreign air carriers of a foreign country, or amend, modify, or limit the operations of the foreign air carriers under the permits, when the Secretary finds—

(A) the action is in the public interest; and

(B) the government, an aeronautical authority, or a foreign air carrier of the foreign country, over the objection of the United States Government, has—

(i) limited or denied the operating rights of an air carrier; or

(ii) engaged in unfair, discriminatory, or restrictive practices that have a substantial adverse competitive impact on an air carrier related to air transportation to, from, through, or over the territory of the foreign country; and

(2) to make this subsection effective, may restrict operations between the United States and the foreign country by a foreign air carrier of a third country.

(c) ILLEGAL IMPORTATION OF CONTROLLED SUBSTANCES.—The Secretary—

(1) in consultation with appropriate departments, agencies, and instrumentalities of the Government, shall reexamine immediately the fitness of a foreign air carrier that—

(A) violates the laws and regulations of the United States related to the illegal importation of a controlled substance; or

(B) does not adopt available measures to prevent the illegal importation of a controlled substance into the United States on its aircraft; and

(2) when appropriate, shall amend, modify, suspend, or revoke the permit of the carrier issued under this chapter.

(d) RESPONSES.—An interested person may file a response with the Secretary opposing or supporting the amendment, modification, suspension, or revocation of a permit under subsection (a) of this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1127.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41304(a)	49 App.:1372(e) (related to duration of permits).	Aug. 23, 1958, Pub. L. 85–726, § 402(e) (related to duration of permits), 72 Stat. 758.
	49 App.:1372(f)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 402(f)(1), 72 Stat. 758; Feb. 15, 1980, Pub. L. 96–192, § 9, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41304(b)	49 App.:1372(f)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 402(f)(2); added Feb. 15, 1980, Pub. L. 96–192, § 9, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	
41304(c)	49 App.:1371a (related to permit).	Aug. 15, 1985, Pub. L. 99–88, § 100 (1st complete par. related to permit on p. 352), 99 Stat. 352.
41304(d)	49 App.:1372(f)(1) (last sentence).	
	49 App.:1551(b)(1)(E).	

In subsection (a), the words ''altered'' and ''cancelled'' are omitted as surplus.

In subsection (b)(1), before clause (A), the words ''alter'' and ''condition'' are omitted as surplus. In clause (B)(i) and (ii), the words ''United States'' before ''air carriers'' and ''carriers'' are omitted as surplus and for consistency because only a citizen of the United States may be an ''air carrier'' as defined in section 40102(a) of the revised title. In clause (B)(i), the word ''impaired'' is omitted as surplus.

In subsection (c), before clause (1), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The words ''on and after August 15, 1985'' are omitted as executed. In clause (1), before subclause (A), the words ''law enforcement and other'' are omitted as surplus. The words ''departments, agencies, and instrumentalities of the Government'' are substituted for ''agencies'' for consistency in the revised title and with other titles of the Code. The words ''a foreign air carrier'' are substituted for ''any carrier'' for clarity. In clause (2), the words ''of public convenience and necessity'' are omitted as surplus. The word ''amend'' is added for consistency. The words ''issued under this chapter'' are added for clarity.

In subsection (d), the word ''response'' is substituted for ''protest or memorandum'' to eliminate unnecessary words. The words ''alteration'' and ''cancellation'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41306, 41310 of this title.

§ 41305. Applications for permits

(a) FORM, CONTENTS, NOTICE, RESPONSE, AND ACTIONS ON APPLICATIONS.—(1) A person must

apply in writing to the Secretary of Transportation to be issued a permit under section 41302 of this title. The Secretary shall prescribe regulations to require that the application be—

(A) verified;

(B) in a certain form and contain certain information;

(C) served on interested persons; and

(D) accompanied by proof of service on those persons.

(2) When an application is filed, the Secretary shall post a notice of the application in the office of the Secretary and give notice of the application to other persons as required by regulations of the Secretary. An interested person may file a response with the Secretary opposing or supporting the issuance of the permit. The Secretary shall act on an application as expeditiously as possible.

(b) TERMS.—The Secretary may impose terms for providing foreign air transportation under the permit that the Secretary finds may be required in the public interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1127.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41305(a)(1) ..	49 App.:1372(c).	Aug. 23, 1958, Pub. L. 85–726, §402(c), (e) (related to terms, conditions, or limitations of permits), 72 Stat. 758.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41305(a)(2) ..	49 App.:1372(d).	Aug. 23, 1958, Pub. L. 85–726, §402(d), 72 Stat. 758; Feb. 15, 1980, Pub. L. 96–192, §8, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	
41305(b)	49 App.:1372(e) (related to terms, conditions, or limitations of permits).	
	49 App.:1551(b)(1)(E).	

In subsection (a)(1), before clause (A), the words ''A person must apply . . . to the Secretary of Transportation to be issued a permit under section 41302 of this title'' are added for clarity. Clause (C) is added for clarity.

In subsection (a)(2), the words ''give due notice thereof to the public by'' are omitted as surplus. The word ''response'' is substituted for ''protest or memorandum'' to eliminate unnecessary words. The word ''expeditiously'' is substituted for ''speedily'' for consistency in this chapter.

In subsection (b), the words ''reasonable'' and ''conditions, or limitations'' are omitted as surplus. The words ''for providing foreign air transportation'' are added for clarity.

§ 41306. Simplified procedure to apply for, amend, modify, and suspend permits

(a) REGULATIONS.—The Secretary of Transportation shall prescribe regulations that simplify the procedure for—

(1) acting on an application for a permit to provide foreign air transportation under section 41302 of this title; and

(2) amending, modifying, or suspending any part of that permit under section 41304(a) or (b) of this title.

(b) NOTICE AND OPPORTUNITY TO RESPOND.—Regulations under this section shall provide for notice and an opportunity for each interested person to file appropriate written evidence and argument. An oral evidentiary hearing is not required to be provided under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1128.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41306(a)	49 App.:1372(h) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §402(h); added Oct. 24, 1978, Pub. L. 95–504, §21(b)(1), 92 Stat. 1723.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41306(b)	49 App.:1372(h) (last sentence).	

In subsection (a)(1), the words ''acting on'' are substituted for ''disposition of'' for consistency. The word ''provide'' is substituted for ''engage in'' for consistency in the revised title.

In subsection (a)(2), the word ''alteration'' is omitted as surplus. The word ''transfer'' is omitted because 49 App.:1372(f) does not cover transfer of a permit.

In subsection (b), the word ''adequate'' is omitted as surplus.

§ 41307. Presidential review of actions about foreign air transportation

The Secretary of Transportation shall submit to the President for review each decision of the Secretary to issue, deny, amend, modify, suspend, revoke, or transfer a certificate issued under section 41102 of this title authorizing an air carrier, or a permit issued under section 41302 of this title authorizing a foreign air carrier, to provide foreign air transportation. The President may disapprove the decision of the Secretary only if the reason for disapproval is based on foreign relations or national defense considerations that are under the jurisdiction of the President. The President may not disapprove a decision of the Secretary if the reason is economic or related to carrier selection. A decision of the Secretary—

(1) is void if the President disapproves the decision and publishes the reasons (to the extent allowed by national security) for disapproval not later than 60 days after it is submitted to the President; or

(2)(A) takes effect as a decision of the Secretary if the President does not disapprove the decision not later than 60 days after the decision is submitted to the President; and

(B) when effective, may be reviewed judicially under section 46110 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1128.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41307	49 App.:1461(a).	Aug. 23, 1958, Pub. L. 85–726, §801(a), 72 Stat. 782; Mar. 22, 1972, Pub. L. 92–259, §2, 86 Stat. 96; restated Oct. 24, 1978, Pub. L. 95–504, §34, 92 Stat. 1740.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In this section, before clause (1), the word ''cancellation'' is omitted as surplus. The word ''modify'' is added for consistency. The words ''and the terms, conditions, and limitations contained in'' are omitted as surplus. The words ''issued under section 41102 of this title'' are added for clarity. The word ''provide'' is substituted for ''engage in'' for consistency in the revised title. In clause (1), the words ''null and'' are omitted as surplus. The word ''publishes'' is substituted for ''issued in a public document'' to eliminate unnecessary words. In clause (2)(A), the words ''not the President'' are omitted as surplus.

EXECUTIVE ORDER NO. 11920

Ex. Ord. No. 11920, June 10, 1976, 41 F.R. 23665, which provided for establishment of Executive branch procedures to facilitate review of submitted decisions, was revoked by Ex. Ord. No. 12547, Feb. 6, 1986, 51 F.R. 5029.

EXECUTIVE ORDER NO. 12547

Ex. Ord. No. 12547, Feb. 6, 1986, 51 F.R. 5029, which provided for establishment of procedures to facilitate Presidential review of international aviation decisions submitted by Department of Transportation, was revoked by Ex. Ord. No. 12597, May 13, 1987, 52 F.R. 18335, set out below.

EX. ORD. NO. 12597. ESTABLISHING PROCEDURES FOR FACILITATING PRESIDENTIAL REVIEW OF INTERNATIONAL AVIATION DECISIONS BY THE DEPARTMENT OF TRANSPORTATION

Ex. Ord. No. 12597, May 13, 1987, 52 F.R. 18335, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 801 of the Federal Aviation Act, as amended (49 U.S.C. app. §1461) [see 49 U.S.C. 41307, 41509(f)], and in order to provide presidential guidance to department and agency heads and facilitate presidential review of decisions by the Department of Transportation pursuant to the Federal Aviation Act [see 49 U.S.C. 40101 et seq.], it is hereby ordered as follows:

SECTION 1. Executive Order No. 12547 of February 6, 1986, is revoked.

SEC. 2. The Secretary of Transportation is designated and empowered to receive on behalf of the President any decision of the Department of Transportation (hereinafter referred to as the ''DOT'') subject to Section 801 of the Federal Aviation Act, as amended. The Secretary of Transportation is further designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority of the President under Section 801 of the Federal Aviation Act, as amended, to review and determine not to disapprove any such decision that is not the subject of any written recommendation for disapproval or for a statement of reasons submitted to the Department of Transportation in accordance with section 5(b) of this Order.

SEC. 3. (a) Except as otherwise provided in this section, decisions of the DOT subject to Section 801 of the Federal Aviation Act, as amended, may be made available by the DOT for public inspection and copying following transmission to Executive departments and agencies pursuant to section 3(c) of this Order.

(b) In the interests of national security, and in order to allow for consideration of appropriate action under Executive Order No. 12356 [50 U.S.C. 435 note], decisions of the DOT transmitted to Executive departments and agencies pursuant to section 3(c) of this Order shall be withheld from public disclosure for a period not to exceed 5 days after said transmission.

(c) At the same time that decisions of the DOT are received by the Secretary of Transportation pursuant to section 2 of this Order, the DOT shall transmit copies thereof to the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Attorney General, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, and any other Executive department or agency that the DOT deems appropriate.

(d) The Secretary of State and the Secretary of Defense, or their designees, shall review the decisions of the DOT transmitted pursuant to section 3(c) of this Order and shall promptly advise the Assistant to the President for National Security Affairs or his designee whether action pursuant to Executive Order No. 12356 is deemed appropriate. If, after considering these recommendations, the Assistant to the President for National Security Affairs determines that classification under Executive Order No. 12356 is appropriate, he shall take such action and immediately so inform the DOT. Action pursuant to this subsection shall be completed by the persons designated herein within 5 days of the transmission of the decision.

(e) On and after the 6th day following transmission of a DOT decision pursuant to section 3(c) of this Order, or upon earlier notification by the Assistant to the President for National Security Affairs or his designee, the DOT is authorized to disclose all unclassified portions of the text of such decision. Nothing in this section is intended to affect the ability to withhold material under any Executive order or statute other than Section 801.

SEC. 4. (a) Departments and agencies outside of the Executive Office of the President shall raise only matters of national defense or foreign relations in the course of the presidential review established by this Order. All other matters, including those related to regulatory policy, shall be presented to the DOT in accordance with the procedures of the DOT.

(b) Departments and agencies outside of the Executive Office of the President that identify matters of national defense or foreign relations while a decision is pending before the DOT shall, except as confidentiality is required for reasons of defense or foreign policy, make those matters known to the DOT in the course of its proceedings.

SEC. 5. (a) The DOT shall receive the recommendations, addressed to the President, of the departments and agencies referred to in section 3(c) of this Order.

(b) Departments or agencies outside of the Executive Office of the President making recommendations on matters of national defense or foreign relations with respect to any decision received by the Secretary of Transportation under section 2 of this Order shall submit their recommendations in writing to the DOT: (1) within 4 days of the DOT's issuance of a decision subject to a 10-day statutory review period under Section 801(b) [see 49 U.S.C. 41509(f)]; and (2) within 21 days of the DOT's issuance of a decision subject to a 60-day statutory review period under Section 801(a) [see 49 U.S.C. 41307]; or (3) in exceptional cases, within the period specified by the DOT in its letter of transmittal.

(c) The DOT shall, as soon as practical after the deadlines specified in section 5(b) of this Order: (1) if no recommendations for disapproval or for a statement of reasons are received from the departments and agencies specified in section 3(c) of this Order, issue its decision to become effective according to its terms; or (2) if recommendations for disapproval or for a statement of reasons are received, transmit them to the Assistant to the President for National Security Affairs, who, upon review, shall transmit a memorandum to the President with a recommendation as to whether or not the President should disapprove the proposed decision.

SEC. 6. (a) In advising the President with respect to his review of a decision pursuant to Section 801, departments and agencies outside of the Executive Office of the President shall identify with particularity the defense or foreign policy implications of the DOT decision that are deemed appropriate for consideration.

(b) If any department or agency that made recommendations to the President pursuant to Section 801 believes that, if the President decides not to disapprove a decision, the letter so advising the DOT should include a statement that the decision not to disapprove was based on national defense or foreign relations reasons, it should so indicate separately and explain why.

SEC. 7. Individuals within the Executive Office of the President shall follow a policy of: (a) refusing to dis-

cuss matters relating to the disposition of a case subject to the review of the President under Section 801 with any interested private party, or an attorney or agent for any such party, prior to the decision by the President or his designee; and (b) referring any written communication from an interested private party, or an attorney or agent for any such party, to the appropriate department or agency outside of the Executive Office of the President. Exceptions to this policy may be made only when the head of an appropriate department or agency outside of the Executive Office of the President personally finds, on a nondelegable basis, that direct written or oral communication between a private party and a person within the Executive Office of the President is needed for reasons of defense or foreign policy.

SEC. 8. Departments and agencies outside of the Executive Office of the President that regularly make recommendations in connection with the presidential review pursuant to Section 801 shall, consistent with applicable law, including the provisions of Chapter 5 of Title 5 of the United States Code:

(a) establish public dockets for all written communications (other than those requiring confidential treatment for defense or foreign policy reasons) between their officers and employees and private parties in connection with the preparation of such recommendations; and

(b) prescribe such other procedures governing oral and written communications as they deem appropriate.

SEC. 9. This Order is intended solely for the internal guidance of the departments and agencies in order to facilitate the presidential review process. This Order does not confer rights on any private parties.

SEC. 10. None of the time deadlines specified in this Order shall be construed as a limitation on expedited presidential review of any decision under Section 801.

SEC. 11. The provisions of this Order shall become effective upon publication in the Federal Register and shall govern the review of any proposed decisions of the DOT that have not become final prior to that date under Executive Order No. 12547.

SEC. 12. References in any Executive order to any provision in Executive Order No. 12547 shall be deemed to refer to the corresponding provision in this Order.

RONALD REAGAN.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41102, 41108, 41310, 46110, 46301 of this title.

§ 41308. Exemption from the antitrust laws

(a) DEFINITION.—In this section, ''antitrust laws'' has the same meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

(b) EXEMPTION AUTHORIZED.—When the Secretary of Transportation decides it is required by the public interest, the Secretary, as part of an order under section 41309 or 42111 of this title, may exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the transaction specifically approved by the order and with any transaction necessarily contemplated by the order.

(c) EXEMPTION REQUIRED.—In an order under section 41309 of this title approving an agreement, request, modification, or cancellation, the Secretary, on the basis of the findings required under section 41309(b)(1), shall exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the transaction specifically approved by the order and with any transaction necessarily contemplated by the order.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1128.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41308	49 App.:1384.	Aug. 23, 1958, Pub. L. 85–726, § 414, 72 Stat. 770; restated Oct. 24, 1978, Pub. L. 95–504, § 30(a), 92 Stat. 1731; Feb. 15, 1980, Pub. L. 96–192, § 27, 94 Stat. 47.
	49 App.:1551(a)(6) (related to 49 App.:1384).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(6) (related to § 414); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), 98 Stat. 1704.
	49 App.:1551(b)(1)(C) (related to 49 App.:1384).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(C) (related to § 414); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1745; Oct. 14, 1982, Pub. L. 97–309, § 4(b), 96 Stat. 1454; Oct. 4, 1984, Pub. L. 98–443, § 3(a), 98 Stat. 1703.

Subsection (a) is substituted for ''the 'anti-trust laws' set forth in subsection (a) of section 12 of title 15'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), reference to 49 App.:1378 and 1379 is omitted as obsolete.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41110 of this title.

§ 41309. Cooperative agreements and requests

(a) FILING.—An air carrier or foreign air carrier may file with the Secretary of Transportation a true copy of or, if oral, a true and complete memorandum of, an agreement (except an agreement related to interstate air transportation), or a request for authority to discuss cooperative arrangements (except arrangements related to interstate air transportation), and any modification or cancellation of an agreement, between the air carrier or foreign air carrier and another air carrier, a foreign carrier, or another carrier.

(b) APPROVAL.—The Secretary of Transportation shall approve an agreement, request, modification, or cancellation referred to in subsection (a) of this section when the Secretary finds it is not adverse to the public interest and is not in violation of this part. However, the Secretary shall disapprove—

(1) or, after periodic review, end approval of, an agreement, request, modification, or cancellation, that substantially reduces or eliminates competition unless the Secretary finds that—

(A) the agreement, request, modification, or cancellation is necessary to meet a serious transportation need or to achieve important public benefits (including international comity and foreign policy considerations); and

(B) the transportation need cannot be met or those benefits cannot be achieved by reasonably available alternatives that are materially less anticompetitive; or

(2) an agreement that—

(A) is between an air carrier not directly operating aircraft in foreign air transportation and a carrier subject to subtitle IV of this title; and

(B) governs the compensation the carrier may receive for the transportation.

(c) NOTICE AND OPPORTUNITY TO RESPOND OR FOR HEARING.—(1) When an agreement, request, modification, or cancellation is filed, the Secretary of Transportation shall give the Attorney General and the Secretary of State written notice of, and an opportunity to submit written comments about, the filing. On the initiative of the Secretary of Transportation or on request of the Attorney General or Secretary of State, the Secretary of Transportation may conduct a hearing to decide whether an agreement, request, modification, or cancellation is consistent with this part whether or not it was approved previously.

(2) In a proceeding before the Secretary of Transportation applying standards under subsection (b)(1) of this section, a party opposing an agreement, request, modification, or cancellation has the burden of proving that it substantially reduces or eliminates competition and that less anticompetitive alternatives are available. The party defending the agreement, request, modification, or cancellation has the burden of proving the transportation need or public benefits.

(3) The Secretary of Transportation shall include the findings required by subsection (b)(1) of this section in an order of the Secretary approving or disapproving an agreement, request, modification, or cancellation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1129; Pub. L. 104–88, title III, § 308(*l*), Dec. 29, 1995, 109 Stat. 948; Pub. L. 104–287, § 5(71), Oct. 11, 1996, 110 Stat. 3396.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41309(a)	49 App.:1382(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 412(a), (b); added Oct. 24, 1978, Pub. L. 95–504, § 28(c), 92 Stat. 1729; Feb. 15, 1980, Pub. L. 96–192, § 11, 94 Stat. 39.
	49 App.:1551(a)(6) (related to 49 App.:1382).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(6) (related to § 412); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), 98 Stat. 1704.
	49 App.:1551(b)(1)(C) (related to 49 App.:1382(a)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(C) (related to § 412(a), (b)); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1745; Oct. 14, 1982, Pub. L. 97–309, § 4(b), 96 Stat. 1454; Oct. 4, 1984, Pub. L. 98–443, § 3(a), 98 Stat. 1703.
41309(b)	49 App.:1382(a)(2)(A). 49 App.:1551(a)(6), (b)(1)(C) (as 1551(a)(6), (b)(1)(C) relates to 49 App.:1382(a)).	
41309(c)(1) ..	49 App.:1382(b). 49 App.:1551(a)(6), (b)(1)(C) (as 1551(a)(6), (b)(1)(C) relates to 49 App.:1382(b)).	
41309(c)(2) ..	49 App.:1382(a)(2)(B).	
41309(c)(3) ..	49 App.:1382(a)(2)(C). 49 App.:1551(a)(6), (b)(1)(C) (as 1551(a)(6), (b)(1)(C) relates to 49 App.:1382(a)).	

In this section, the word ''contract'' is omitted as being included in ''agreement''.

In subsection (a), the words ''(whether enforceable by provisions for liquidated damages, penalties, bonds, or otherwise)'' are omitted as surplus. The words ''(except an agreement related to interstate air transportation)'' and ''(except arrangements related to interstate air transportation)'' are added because of 49 App.:1551(a)(6) (related to 49 App.:1382). The word ''working'' is omitted as surplus. The words ''in force on October 24, 1978, or thereafter entered into'' are omitted as executed. The words ''and any modification or cancellation of an agreement'' are substituted for ''or any modification or cancellation thereof'' for clarity and consistency.

In subsection (b), before clause (1), the words ''The Board shall by order disapprove any contract, agreement, or request . . . that it finds to be adverse to the public interest or in violation of this chapter'' are omitted as surplus because of the language restated in this subsection that sets out the requirements for approval by the Secretary of Transportation before the antitrust exemption is effective. The words ''whether or not previously approved by it'' are omitted as surplus because of the language in clause (1) requiring periodic review and continuing approval. The words ''by order'' are omitted as unnecessary because of 5:ch. 5, subch. II. The text of 49 App.:1382(a)(2)(A)(iii) is omitted as obsolete because of 49 App.:1551(a)(6) (related to 49 App.:1382).

In subsection (c)(1), the words ''in accordance with regulations which it prescribes'' are omitted as surplus. The words ''in accordance with regulations prescribed by the Board'' are omitted as surplus.

PUB. L. 104–287

This amends 49:41309(b)(2)(B) for consistency in the subsection.

AMENDMENTS

1996—Subsec. (b)(2)(B). Pub. L. 104–287 substituted ''carrier'' for ''common carrier''.

1995—Subsec. (b)(2)(A). Pub. L. 104–88 substituted ''a carrier'' for ''a common carrier''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41101, 41110, 41308, 41503, 41710, 42111 of this title.

§ 41310. Discriminatory practices

(a) PROHIBITION.—An air carrier or foreign air carrier may not subject a person, place, port, or type of traffic in foreign air transportation to unreasonable discrimination.

(b) REVIEW AND NEGOTIATION OF DISCRIMINATORY FOREIGN CHARGES.—(1) The Secretary of Transportation shall survey charges imposed on an air carrier by the government of a foreign country or another foreign entity for the use of airport property or airway property in foreign air transportation. If the Secretary of Transportation decides that a charge is discriminatory, the Secretary promptly shall report the decision to the Secretary of State. The Secretaries of State and Transportation promptly shall begin negotiations with the appropriate government to end the discrimination. If the discrimination is not ended in a reasonable time through negotiation, the Secretary of Transportation shall establish a compensating charge equal to the discriminatory charge. With the approval of the Secretary of State, the Secretary of the Treasury shall impose the compensating charge on a

foreign air carrier of that country as a condition to accepting the general declaration of the aircraft of the foreign air carrier when it lands or takes off.

(2) The Secretary of the Treasury shall maintain an account to credit money collected under paragraph (1) of this subsection. An air carrier shall be paid from the account an amount certified by the Secretary of Transportation to compensate the air carrier for the discriminatory charge paid to the government.

(c) ACTIONS AGAINST DISCRIMINATORY ACTIVITY.—(1) The Secretary of Transportation may take actions the Secretary considers are in the public interest to eliminate an activity of a government of a foreign country or another foreign entity, including a foreign air carrier, when the Secretary, on the initiative of the Secretary or on complaint, decides that the activity—

(A) is an unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practice against an air carrier; or

(B) imposes an unjustifiable or unreasonable restriction on access of an air carrier to a foreign market.

(2) The Secretary of Transportation may deny, amend, modify, suspend, revoke, or transfer under paragraph (1) of this subsection a foreign air carrier permit or tariff under section 41302, 41303, 41304(a), 41504(c), 41507, or 41509 of this title.

(d) FILING OF, AND ACTING ON, COMPLAINTS.—(1) An air carrier or a department, agency, or instrumentality of the United States Government may file a complaint under subsection (c) of this section with the Secretary of Transportation. The Secretary shall approve, deny, or dismiss the complaint, set the complaint for a hearing or investigation, or begin another proceeding proposing remedial action not later than 60 days after receiving the complaint. The Secretary may extend the period for acting for additional periods totaling not more than 30 days if the Secretary decides that with additional time it is likely that a complaint can be resolved satisfactorily through negotiations with the government of the foreign country or foreign entity. The Secretary must act not later than 90 days after receiving the complaint. However, the Secretary may extend this 90-day period for not more than an additional 90 days if, on the last day of the initial 90-day period, the Secretary finds that—

(A) negotiations with the government have progressed to a point that a satisfactory resolution of the complaint appears imminent;

(B) an air carrier has not been subjected to economic injury by the government or entity as a result of filing the complaint; and

(C) the public interest requires additional time before the Secretary acts on the complaint.

(2) In carrying out paragraph (1) of this subsection and subsection (c) of this section, the Secretary of Transportation shall—

(A) solicit the views of the Secretaries of Commerce and State and the United States Trade Representative;

(B) give an affected air carrier or foreign air carrier reasonable notice and an opportunity to submit written evidence and arguments within the time limits of this subsection; and

(C) submit to the President under section 41307 or 41509(f) of this title actions proposed by the Secretary of Transportation.

(e) REVIEW.—(1) The Secretaries of State, the Treasury, and Transportation and the heads of other departments, agencies, and instrumentalities of the Government shall keep under review, to the extent of each of their jurisdictions, each form of discrimination or unfair competitive practice to which an air carrier is subject when providing foreign air transportation. Each Secretary and head shall—

(A) take appropriate action to eliminate any discrimination or unfair competitive practice found to exist; and

(B) request Congress to enact legislation when the authority to eliminate the discrimination or unfair practice is inadequate.

(2) The Secretary of Transportation shall report to Congress annually on each action taken under paragraph (1) of this subsection and on the continuing program to eliminate discrimination and unfair competitive practices. The Secretaries of State and the Treasury each shall give the Secretary of Transportation information necessary to prepare the report.

(f) REPORTS.—Not later than 30 days after acting on a complaint under this section, the Secretary of Transportation shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on action taken under this section on the complaint.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1130; Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41310(a)	49 App.:1374(b).	Aug. 23, 1958, Pub. L. 85–726, § 404(b), 72 Stat. 760.
	49 App.:1551(a)(4)(C) (related to 49 App.:1374(b)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(4)(C) (related to § 404(b)); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), 98 Stat. 1703.
41310(b)	49 App.:1159a.	June 16, 1948, ch. 473, 62 Stat. 450, § 11; added Jan. 3, 1975, Pub. L. 93–623, § 3, 88 Stat. 2103; Oct. 4, 1984, Pub. L. 98–443, § 9(c), 98 Stat. 1706.
41310(c)	49 App.:1159b(b)(1).	Jan. 3, 1975, Pub. L. 93–623, 88 Stat. 2102, § 2(b)(1), (2), (4); added Feb. 15, 1980, Pub. L. 96–192, § 23, 94 Stat. 45; Oct. 4, 1984, Pub. L. 98–443, § 9(d)(2), (3), 98 Stat. 1707; Aug. 23, 1988, Pub. L. 100–418, §§ 10011, 10012(1), (2), 102 Stat. 1573.
41310(d)(1) ..	49 App.:1159b(b)(2), (4).	
41310(d)(2) ..	49 App.:1159b(b)(3).	Jan. 3, 1975, Pub. L. 93–623, 88 Stat. 2102, § 2(b)(3), (e); added Aug. 23, 1988, Pub. L. 100–418, §§ 10012(3), 10013, 102 Stat. 1573.
41310(e)(1) ..	49 App.:1159b(a).	Jan. 3, 1975, Pub. L. 93–623, § 2(a), 88 Stat. 2102; Oct. 4, 1984, Pub. L. 98–443, § 9(d)(1), 98 Stat. 1706.
	49 App.:1159b(c).	Jan. 3, 1975, Pub. L. 93–623, § 2(c), 88 Stat. 2103; Feb. 15, 1980, Pub. L. 96–192, § 23, 94 Stat. 45.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41310(e)(2) ..	49 App.:1159b(d).	Jan. 3, 1975, Pub. L. 93–623, §2(d), 88 Stat. 2103; Feb. 15, 1980, Pub. L. 96–192, §23, 94 Stat. 45; Oct. 4, 1984, Pub. L. 98–443, §9(d)(2), (4), 98 Stat. 1707.
41310(f)	49 App.:1159b(e).	

In subsection (a), the words ''may not subject . . . to unreasonable discrimination'' are substituted for ''No . . . shall make, give, or cause any undue or unreasonable preference or advantage . . . in any respect whatsoever or subject . . . to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever'' to eliminate unnecessary words. The words ''foreign air transportation'' are substituted for ''air transportation'' because 49 App.:1551(a)(4)(C) provides that 49 App.:1374 no longer applies to interstate or overseas air transportation except insofar as 49 App.:1374 requires air carriers to provide safe and adequate service.

In subsection (b)(1), the words ''at any time'', ''unreasonably exceed comparable charges for furnishing such airport property or airway property in the United States or are otherwise'' and ''reduce such charges or'' are omitted as surplus. The words ''the Secretary of State shall promptly report such instances to'' are omitted as surplus because the Secretary of Transportation is involved in the negotiations and aware of the failure to end the discrimination. The words ''excessive or'' are omitted as surplus. The words ''or carriers'' are omitted because of 1:1.

In subsection (b)(2), the words ''in accordance with such regulations as he shall adopt'' are omitted as surplus because of 49:322(a). The words ''by them'' are omitted as surplus.

In subsections (c)–(e), the words ''United States'' before ''air carriers'' and ''air carrier'' are omitted as surplus and for consistency because only a citizen of the United States may be an ''air carrier'' as defined in section 40102(a) of the revised title and because 49 App.:1301 applies to this section.

In subsections (c)(1) and (d)(1), before each clause (A), the words ''foreign entity'' and ''entity'' are substituted for ''instrumentality'' for consistency in the revised title and with other titles of the United States Code.

In subsection (c)(2), the words ''alteration'', ''cancellation'', ''limitation'', and ''pursuant to the powers of the Secretary'' are omitted as surplus.

In subsection (d)(1), before clause (A), the words ''department, agency, or instrumentality of the United States Government'' are substituted for ''agency of the Government of the United States'' for consistency in the revised title and with other titles of the Code. The words ''additional periods totaling not more than 30 days'' are substituted for ''an additional period or periods of up to 30 days each'' for clarity because the amendment made by section 10111 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418, 102 Stat. 1573) changed the additional period within which the Secretary had to act to only 30 days. The word ''initial'' is added for clarity.

In subsection (d)(2)(A), the words ''the Secretaries of Commerce and State and the United States Trade Representative'' are substituted for ''the Department of State, the Department of Commerce, and the Office of the United States Trade Representative'' because of 15:1501, 22:2651, and 19:2171, respectively.

In subsection (d)(2)(B), the words ''as is consistent with acting on the complaint'' are omitted as surplus.

In subsection (e)(1), before clause (A), the text of 49 App.:1159b(a) (1st, 2d sentences) is omitted as executed. The words ''The Secretaries of State, the Treasury, and Transportation'' are substituted for ''The Department of State, the Department of the Treasury, the Department of Transportation'' because of 22:2651, 31:301(b), and 49:102(b), respectively. The words ''the heads of'' and ''instrumentalities of the Government'' are added for consistency in the revised title and with other titles of the Code. The word ''jurisdictions'' is substituted for ''respective functions'' for clarity and consistency. In clause (A), the words ''within its jurisdiction . . . such forms of'' are omitted as surplus. Clause (B) is substituted for 49 App.:1159b(c) to eliminate unnecessary words.

In subsection (e)(2), the words ''faced by United States carriers in foreign air transportation'', ''as may be'', and ''required by this subsection'' are omitted as surplus.

AMENDMENTS

1996—Subsec. (f). Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41110, 46301 of this title.

§ 41311. Gambling restrictions

(a) IN GENERAL.—An air carrier or foreign air carrier may not install, transport, or operate, or permit the use of, any gambling device on board an aircraft in foreign air transportation.

(b) DEFINITION.—In this section, the term ''gambling device'' means any machine or mechanical device (including gambling applications on electronic interactive video systems installed on board aircraft for passenger use)—

(1) which when operated may deliver, as the result of the application of an element of chance, any money or property; or

(2) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property.

(Added Pub. L. 103–305, title II, §205(a)(1), Aug. 23, 1994, 108 Stat. 1583.)

STUDY OF GAMBLING ON COMMERCIAL AIRCRAFT

Section 205(b) of Pub. L. 103–305 provided that: ''Not later than 1 year after the date of the enactment of this Act [Aug. 23, 1994], the Secretary shall complete a study of—

''(1) the aviation safety effects of gambling applications on electronic interactive video systems installed on board aircraft for passenger use, including an evaluation of the effect of such systems on the navigational and other electronic equipment of the aircraft, on the passengers and crew of the aircraft, and on issues relating to the method of payment;

''(2) the competitive implications of permitting foreign air carriers only, but not United States air carriers, to install, transport, and operate gambling applications on electronic interactive video systems on board aircraft in the foreign commerce of the United States on flights over international waters, or in fifth freedom city-pair markets; and

''(3) whether gambling should be allowed on international flights, including proposed legislation to effectuate any recommended changes in existing law.

The Secretary shall, within 5 days after the completion of the study, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation [now Committee on Transportation and Infrastructure] of the House of Representatives on the results of the study.''

§ 41312. Ending or suspending foreign air transportation

(a) GENERAL.—An air carrier holding a certificate issued under section 41102 of this title to provide foreign air transportation—

(1) may end or suspend the transportation to a place under the certificate only when the carrier gives at least 90 days notice of its intention to end or suspend the transportation to the Secretary of Transportation, any community affected by that decision, and the State authority of the State in which a community is located; and

(2) if it is the only air carrier holding a certificate to provide non-stop or single-plane foreign air transportation between 2 places, may end or suspend the transportation between those places only when the carrier gives at least 60 days notice of its intention to end or suspend the transportation to the Secretary and each community directly affected by that decision.

(b) TEMPORARY SUSPENSION.—The Secretary may authorize the temporary suspension of foreign air transportation under subsection (a) of this section when the Secretary finds the suspension is in the public interest.

(Added Pub. L. 103–429, § 6(51)(A), Oct. 31, 1994, 108 Stat. 4384; amended Pub. L. 104–287, § 5(72), Oct. 11, 1996, 110 Stat. 3396.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–429

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41312(a)	49 App.:1371(j)(1) (1st sentence), (2).	Aug. 23, 1958, Pub. L. 85–726, § 401(j), 72 Stat. 756, as restated Oct. 24, 1978, Pub. L. 95–504, § 19(a), 92 Stat. 1720.
	49 App.:1551(a)(1)(D).	Aug. 23, 1958, Pub. L. 85–726, § 1601(a)(1)(D), as added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1744.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, § 1601(b)(1)(E), as added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41312(b)	49 App.:1371(j)(1) (last sentence). 49 App.:1551(a)(1)(D), (b)(1)(E).	

In the section, the text of 49 App.:1371(j) (related to interstate and overseas transportation of persons) is omitted because of 49 App.:1551(a)(1)(D). The text of 49 App.:1371(j) (related to other interstate and overseas air transportation and the domestic air transportation of mail) is omitted because a certificate of public convenience and necessity is no longer required. See H.R. Rept. 98–793, 98th Cong., 2d Sess., p. 10 (1984). The text of 49 App.:1371(j) (related to essential air transportation) is omitted as superseded by 49 App.:1389, restated as subchapter II of chapter 417 of title 49.

In subsection (a)(1) and (2), the word ''place'' is substituted for ''point'' for consistency in the revised title. The words ''by that decision'' are added for clarity.

In subsection (a)(1), the words ''which it is providing'' are omitted as surplus. The word ''authority'' is substituted for ''agency'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2), the words ''between those places'' are substituted for ''being provided by such air carrier under such certificate'' to eliminate unnecessary words.

In subsection (b), the words ''by regulation or otherwise'' are omitted as surplus. The words ''when the Secretary finds the suspension is in'' are substituted for ''as may be'' for clarity and consistency.

PUB. L. 104–287

This amends 49:41312(a)(1) to conform to the style of title 49.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–287 substituted ''Secretary of Transportation'' for ''Secretary''.

EFFECTIVE DATE

Section effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as an Effective Date of 1994 Amendment note under section 321 of this title.

§ 41313. Plans to address needs of families of passengers involved in foreign air carrier accidents

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) AIRCRAFT ACCIDENT.—The term ''aircraft accident'' means any aviation disaster, regardless of its cause or suspected cause, that occurs within the United States; and

(2) PASSENGER.—The term ''passenger'' includes an employee of a foreign air carrier or air carrier aboard an aircraft.

(b) SUBMISSION OF PLANS.—A foreign air carrier providing foreign air transportation under this chapter shall transmit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a significant loss of life.

(c) CONTENTS OF PLANS.—To the extent permitted by foreign law which was in effect on the date of the enactment of this section, a plan submitted by a foreign air carrier under subsection (b) shall include the following:

(1) TELEPHONE NUMBER.—A plan for publicizing a reliable, toll-free telephone number and staff to take calls to such number from families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a significant loss of life.

(2) NOTIFICATION OF FAMILIES.—A process for notifying, in person to the extent practicable, the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a significant loss of life before providing any public notice of the names of such passengers. Such notice shall be provided by using the services of—

(A) the organization designated for the accident under section 1136(a)(2); or

(B) other suitably trained individuals.

(3) NOTICE PROVIDED AS SOON AS POSSIBLE.—An assurance that the notice required by paragraph (2) shall be provided as soon as practicable after the foreign air carrier has verified the identity of a passenger on the foreign aircraft, whether or not the names of all of the passengers have been verified.

(4) LIST OF PASSENGERS.—An assurance that the foreign air carrier shall provide, imme-

diately upon request, and update a list (based on the best available information at the time of the request) of the names of the passengers aboard the aircraft (whether or not such names have been verified), to—

(A) the director of family support services designated for the accident under section 1136(a)(1); and

(B) the organization designated for the accident under section 1136(a)(2).

(5) CONSULTATION REGARDING DISPOSITION OF REMAINS AND EFFECTS.—An assurance that the family of each passenger will be consulted about the disposition of any remains and personal effects of the passenger that are within the control of the foreign air carrier.

(6) RETURN OF POSSESSIONS.—An assurance that, if requested by the family of a passenger, any possession (regardless of its condition) of that passenger that is within the control of the foreign air carrier will be returned to the family unless the possession is needed for the accident investigation or a criminal investigation.

(7) UNCLAIMED POSSESSIONS RETAINED.—An assurance that any unclaimed possession of a passenger within the control of the foreign air carrier will be retained by the foreign air carrier for not less than 18 months after the date of the accident.

(8) MONUMENTS.—An assurance that the family of each passenger will be consulted about construction by the foreign air carrier of any monument to the passengers built in the United States, including any inscription on the monument.

(9) EQUAL TREATMENT OF PASSENGERS.—An assurance that the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

(10) SERVICE AND ASSISTANCE TO FAMILIES OF PASSENGERS.—An assurance that the foreign air carrier will work with any organization designated under section 1136(a)(2) on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following an accident.

(11) COMPENSATION TO SERVICE ORGANIZATIONS.—An assurance that the foreign air carrier will provide reasonable compensation to any organization designated under section 1136(a)(2) for services and assistance provided by the organization.

(12) TRAVEL AND CARE EXPENSES.—An assurance that the foreign air carrier will assist the family of any passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

(13) RESOURCES FOR PLAN.—An assurance that the foreign air carrier will commit sufficient resources to carry out the plan.

(14) SUBSTITUTE MEASURES.—If a foreign air carrier does not wish to comply with paragraph (10), (11), or (12), a description of proposed adequate substitute measures for the requirements of each paragraph with which the foreign air carrier does not wish to comply.

(d) PERMIT AND EXEMPTION REQUIREMENT.—The Secretary shall not approve an application for a permit under section 41302 unless the applicant has included as part of the application or request for exemption a plan that meets the requirements of subsection (c).

(e) LIMITATION ON LIABILITY.—A foreign air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the foreign air carrier in preparing or providing a passenger list pursuant to a plan submitted by the foreign air carrier under subsection (c), unless the liability was caused by conduct of the foreign air carrier which was grossly negligent or which constituted intentional misconduct.

(Added Pub. L. 105–148, §1(a), Dec. 16, 1997, 111 Stat. 2681.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (c), is the date of enactment of Pub. L. 105–148, which was approved Dec. 16, 1997.

EFFECTIVE DATE

Pub. L. 105–148, §1(c), Dec. 16, 1997, 111 Stat. 2683, provided that: ''The amendments made by this section [enacting this section] shall take effect on the 180th day following the date of the enactment of this Act [Dec. 16, 1997].''

CHAPTER 415—PRICING

Sec.

41501. Establishing reasonable prices, classifications, rules, practices, and divisions of joint prices for foreign air transportation.
41502. Establishing joint prices for through routes with other carriers.
41503. Establishing joint prices for through routes provided by State authorized carriers.
41504. Tariffs for foreign air transportation.
41505. Uniform methods for establishing joint prices, and divisions of joint prices, applicable to commuter air carriers.
41506. Price division filing requirements for foreign air transportation.
41507. Authority of the Secretary of Transportation to change prices, classifications, rules, and practices for foreign air transportation.
41508. Authority of the Secretary of Transportation to adjust divisions of joint prices for foreign air transportation.
41509. Authority of the Secretary of Transportation to suspend, cancel, and reject tariffs for foreign air transportation.
41510. Required adherence to foreign air transportation tariffs.
41511. Special prices for foreign air transportation.

AMENDMENTS

1997—Pub. L. 105–102, §2(21), Nov. 20, 1997, 111 Stat. 2205, struck out ''common'' before ''carriers'' in item 41502.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 40109, 46301 of this title.

§ 41501. Establishing reasonable prices, classifications, rules, practices, and divisions of joint prices for foreign air transportation

Every air carrier and foreign air carrier shall establish, comply with, and enforce—

(1) reasonable prices, classifications, rules, and practices related to foreign air transportation; and

(2) for joint prices established for foreign air transportation, reasonable divisions of those prices among the participating air carriers or foreign air carriers without unreasonably discriminating against any of those carriers.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1132.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41501	49 App.:1374(a)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 404(a)(2); added Mar. 22, 1972, Pub. L. 92–259, § 1, 86 Stat. 95.

In this chapter, the word ''regulation'' is omitted in restating the phrase ''classifications, rules, regulations, and practices'' because it is covered by the word ''rules'' and to distinguish the rules of an air carrier or foreign air carrier from the regulations of the United States Government. The word ''reasonable'' is substituted for ''just and reasonable'' and ''just, reasonable, and equitable'' for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101. The word ''prices'' is substituted for ''fares'' and ''rates, fares, and charges'' because of the definition of ''price'' in section 40102(a) of the revised title.

In this section, before clause (1), the words ''comply with'' are substituted for ''observe'' for consistency in the revised title and with other titles of the United States Code. In clause (1), the words ''individual and joint'' are omitted as surplus. In clause (2), the words ''unreasonably discriminating'' are substituted for ''unduly prefer or prejudice'' for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41110 of this title.

§ 41502. Establishing joint prices for through routes with other carriers

(a) JOINT PRICES.—An air carrier may establish reasonable joint prices and through service with another carrier. However, an air carrier not directly operating aircraft in air transportation (except an air express company) may not establish under this section a joint price for the transportation of property with a carrier subject to subtitle IV of this title.

(b) PRICES, CLASSIFICATIONS, RULES, AND PRACTICES AND DIVISIONS OF JOINT PRICES.—For through service by an air carrier and a carrier subject to subtitle IV of this title, the participating carriers shall establish—

(1) reasonable prices and reasonable classifications, rules, and practices affecting those prices or the value of the transportation provided under those prices; and

(2) for joint prices established for the through service, reasonable divisions of those joint prices among the participating carriers.

(c) STATEMENTS INCLUDED IN TARIFFS.—An air carrier and a carrier subject to subtitle IV of this title that are participating in through service and joint prices shall include in their tariffs, filed with the Secretary of Transportation, a statement showing the through service and joint prices.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1132; Pub. L. 104–88, title III, § 308(*l*), Dec. 29, 1995, 109 Stat. 948; Pub. L. 105–102, § 2(22), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41502(a)	49 App.:1483(b) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1003(b), 72 Stat. 791.
41502(b)	49 App.:1483(b) (2d sentence).	
41502(c)	49 App.:1483(b) (last sentence).	
	49 App.:155(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In subsection (a), the words ''(except an air express company)'' are substituted for ''(other than companies engaged in the air express business)'' to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''participating carriers'' are substituted for ''carriers parties thereto'' and ''carriers participating therein'' for consistency in this chapter.

In subsection (c), the words ''or the Interstate Commerce Commission, as the case may be'' are omitted because of 49:10526(a)(8)(B).

PUB. L. 105–102

This amends the catchline for 49:41502 to make a technical and conforming amendment necessary because section 308(*l*) of the ICC Termination Act (Public Law 104–88, 109 Stat. 948) struck ''common'' from the text of 49:41502.

AMENDMENTS

1997—Pub. L. 105–102 struck out ''common'' before ''carriers'' in section catchline.

1995—Pub. L. 104–88 substituted ''another carrier'' for ''another common carrier'' in subsec. (a) and ''a carrier'' for ''a common carrier'' in subsecs. (a), (b), and (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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 46301 of this title.

§ 41503. Establishing joint prices for through routes provided by State authorized carriers

Subject to sections 41309 and 42111 of this title, a citizen of the United States providing transportation under section 41101(b) of this title may make an agreement with an air carrier or foreign air carrier for joint prices for that transportation. The joint prices agreed to must be the lowest of—

(1) the sum of the applicable prices for—

(A) the part of the transportation provided in the State and approved by the appropriate State authority; and

(B) the part of the transportation provided by the air carrier or foreign air carrier;

(2) a joint price established and filed under section 41504 of this title; or

(3) a joint price prescribed by the Secretary of Transportation under section 41507 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1132.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41503	49 App.:1371(d)(4)(A)(ii) (related to joint rates, fares), (B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §401(d)(4)(A)(ii) (related to joint rates, fares), (B); added Nov. 9, 1977, Pub. L. 95–163, §9, 91 Stat. 1281; restated Oct. 24, 1978, Pub. L. 95–504, §9, 92 Stat. 1713.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In this section, before clause (1), the words ''Notwithstanding any other provision of this chapter'' are omitted as surplus. The words ''a citizen of the United States providing transportation under section 41101(b) of this title'' are substituted for ''any citizen of the United States who undertakes, within any State, the carriage of persons or property as a common carrier for compensation or hire with aircraft capable of carrying thirty or more persons pursuant to authority for such carriage within such State granted by the appropriate State agency'' for clarity and because of the restatement of 49 App.:1371(d)(4)(A)(i) and (ii) (related to joint services) in section 41101(b) of the revised title. The words ''the establishment of'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41110 of this title.

§ 41504. Tariffs for foreign air transportation

(a) FILING AND CONTENTS.—In the way prescribed by regulation by the Secretary of Transportation, every air carrier and foreign air carrier shall file with the Secretary, publish, and keep open to public inspection, tariffs showing the prices for the foreign air transportation provided between places served by the carrier and provided between places served by the carrier and places served by another air carrier or foreign air carrier with which through service and joint prices have been established. A tariff—

(1) shall contain—

(A) to the extent the Secretary requires by regulation, a description of the classifications, rules, and practices related to the foreign air transportation;

(B) a statement of the prices in money of the United States; and

(C) other information the Secretary requires by regulation; and

(2) may contain—

(A) a statement of the prices in money that is not money of the United States; and

(B) information that is required under the laws of a foreign country in or to which the air carrier or foreign air carrier is authorized to operate.

(b) CHANGES.—(1) Except as provided in paragraph (2) of this subsection, an air carrier or foreign air carrier may change a price or a classification, rule, or practice affecting that price or the value of the transportation provided under that price, specified in a tariff of the carrier for foreign air transportation only after 30 days after the carrier has filed, published, and posted notice of the proposed change in the same way as required for a tariff under subsection (a) of this section. However, the Secretary may prescribe an alternative notice requirement, of at least 25 days, to allow an air carrier or foreign air carrier to match a proposed change in a passenger fare or a charge of another air carrier or foreign air carrier. A notice under this paragraph must state plainly the change proposed and when the change will take effect.

(2) If the effect of a proposed change would be to begin a passenger fare that is outside of, or not covered by, the range of passenger fares specified under section 41509(e)(2) and (3) of this title, the proposed change may be put into effect only on the expiration of 60 days after the notice is filed under regulations prescribed by the Secretary.

(c) REJECTION OF CHANGES.—The Secretary may reject a tariff or tariff change that is not consistent with this section and regulations prescribed by the Secretary. A tariff or change that is rejected is void.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1133.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41504(a)	49 App.:1373(a) (1st sentence, 2d sentence words before semicolon, last sentence).	Aug. 23, 1958, Pub. L. 85–726, §403(a), 72 Stat. 758.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(a)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(B) (related to §403(a), (c)(1), (2)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(c), (e), 98 Stat. 1703, 1704.
41504(b)(1) ..	49 App.:1373(c)(1).	Aug. 23, 1958, Pub. L. 85–726, §403(c)(1), (2), 72 Stat. 759; Nov. 9, 1977, Pub. L. 95–163, §10(a), 91 Stat. 1281; restated Oct. 24, 1978, Pub. L. 95–504, §22, 92 Stat. 1724; Feb. 15, 1980, Pub. L. 96–192, §24(b), (c), 94 Stat. 47.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(c)(1)), (b)(1)(E).	
41504(b)(2) ..	49 App.:1373(c)(2).	
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(c)(2)), (b)(1)(E).	
41504(c)	49 App.:1373(a) (2d sentence words after semicolon, 3d sentence).	
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(a)), (b)(1)(E).	

In this section, the words ''foreign air transportation'' are substituted for ''air transportation'' because 49 App.:1551(a)(4)(B) provides that 49 App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs rates for the transportation of mail by aircraft. See section 40102(a) of the revised title defining ''air transportation'' to mean interstate or foreign air transportation or the transportation of mail by aircraft. The words ''passenger fare'' are substituted for ''fare'' for consistency in the revised title.

In subsection (a), before clause (1), the word ''print'' is omitted as being included in ''publish''. The word ''places'' is substituted for ''points'' for consistency in the revised title and with other titles of the United States Code. In clause (1)(A), the word ''services'' is omitted as being included in ''practices''. In clauses (1)(B) and (2)(A), the word ''lawful'' is omitted as surplus.

In subsection (b)(1), the words ''for foreign air transportation'' are added because of 49 App.:1551(a)(4)(B).

See the revision notes for subsection (a) of this section. The words ''in the same way as required for a tariff under'' are substituted for ''in accordance with'' for clarity. The words ''proposed change in a passenger fare or a charge of another air carrier or foreign air carrier'' are substituted for ''fares or charges specified in another air carrier's or foreign air carrier's proposed tariff'' for clarity and consistency in this section.

In subsection (b)(2), the words ''not covered by'' are substituted for ''to which such range of fares does not apply'' to eliminate unnecessary words. The words ''subparagraphs (A) and (B) of section 1482(d)(4) of this Appendix . . . section 1482(d)(7) of this Appendix'' are omitted because those sections related to interstate and overseas air transportation and the source provisions restated in this section relate to foreign air transportation. In addition, the text of 49 App.:1551(a)(5)(D) provides that 49 App.:1482(d) ceased to be in effect on January 1, 1985, except as related to foreign air transportation. The reference in the source provisions to ''section 1482(j)(9) of this Appendix'' has been restated as though it were a reference to 49 App.:1482(j)(10) to correct an apparent error in the International Air Transportation Competition Act of 1979 (Public Law 96–192, 94 Stat. 35). Section 24(b) of S. 1300 of the 96th Congress (the derivative source for the International Air Transportation Competition Act of 1979), as originally passed by both the Senate and the House of Representatives, restated section 403(c)(2) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 759) to read as it now does with a cross–reference to section 1002(j)(9) of the Federal Aviation Act of 1958. Also contained in those versions of S. 1300 in section 24(a) was an amendment to section 1002(j) of the Federal Aviation Act of 1958 to add a paragraph (9) that contained language identical to what is now section 1002(j)(10) of the Federal Aviation Act of 1958. When S. 1300 was reported by the conference committee and enacted into law as the International Air Transportation Competition Act of 1979, section 24(a) had been changed so that a different paragraph (9) was added and what had been paragraph (9) was now designated as a new paragraph (10) to be added. Apparently, when the conference committee redesignated section 1002(j)(9) as 1002(j)(10) it did not make a corresponding change in the cross–reference in section 403(c)(2). See 125 Cong. Rec. 26936, 32147, 36939.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41110, 41310, 41503, 41509 of this title.

§ 41505. Uniform methods for establishing joint prices, and divisions of joint prices, applicable to commuter air carriers

(a) DEFINITION.—In this section, ''commuter air carrier'' means an air carrier providing transportation under section 40109(f) of this title that provides at least 5 scheduled roundtrips a week between the same 2 places.

(b) GENERAL.—Except as provided in subsection (c) of this section, when the Secretary of Transportation prescribes under section 41508 or 41509 of this title a uniform method generally applicable to establishing joint prices and divisions of joint prices for and between air carriers holding certificates issued under section 41102 of this title, the Secretary shall make that uniform method apply to establishing joint prices and divisions of joint prices for and between air carriers and commuter air carriers.

(c) NOTICE REQUIRED BEFORE MODIFYING, SUSPENDING, OR ENDING TRANSPORTATION.—A commuter air carrier that has an agreement with an air carrier to provide transportation for passengers and property that includes through service by the commuter air carrier over the commuter air carrier's routes and air transportation provided by the air carrier shall give the air carrier and the Secretary at least 90 days' notice before modifying, suspending, or ending the transportation. If the commuter air carrier does not give that notice, the uniform method of establishing joint prices and divisions of joint prices referred to in subsection (b) of this section does not apply to the commuter air carrier.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1134.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41505(a)	49 App.:1482a(2), (3).	Oct. 24, 1978, Pub. L. 95–504, §37(c), 92 Stat. 1742.
41505(b)	49 App.:1482a(1) (1st sentence).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41505(c)	49 App.:1482a(1) (last sentence).	
	49 App.:1551(b)(1)(E).	

In subsection (a), the text of 49 App.:1482a(2)(A) is omitted as unnecessary because the definition of ''air carrier'' in 49 App.:1301(3) is restated in section 40102(a) of the revised title and applies to this section and because the functions of the Civil Aeronautics Board under 49 App.:1482a were transferred to the Secretary of Transportation by 49 App.:1551(b)(1)(E) and the complete name of the Secretary is used the first time the term appears in a section. The text of 49 App.:1482a(3) is omitted as executed. The reference in the source provisions to ''section 416(b)(3) of the Federal Aviation Act of 1958 [49 App. U.S.C. 1386(b)(3)]'' has been restated as though it were a reference to section 416(b)(4) to correct an apparent error in the Airline Deregulation Act of 1978 (Public Law 95–504, 92 Stat. 1705). Section 24 of H.R. 12611 of the 95th Congress (the derivative source for 416(b)(4)), added section 416(b)(3) to the Federal Aviation Act. Section 29(c) added provisions that eventually were classified as 49 App.:1482a. Those provisions contained a reference to section 416(b)(3). When S. 2493 (passed in lieu of the House bill after being amended to contain much of the text of the House bill) was reported by the conference committee and enacted into law, section 32 added what had been a new 416(b)(3) as a new 416(b)(4). However, the conference committee did not make a corresponding change in the cross-reference in section 37(c), that added 49 App.:1482a. See 124 Cong. Rec. 30714, 30716, 36521, 36524. The word ''scheduled'' is substituted for ''pursuant to flight schedules'' to eliminate unnecessary words. The words ''the same 2 places'' are substituted for ''one pair of points'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words ''Except as provided in subsection (c) of this section'' are added for clarity. The words ''pursuant to its authority'' are omitted as surplus.

In subsection (c), the word ''passengers'' is substituted for ''persons'' for consistency in the revised title and with other titles of the Code. The words ''through service by the commuter air carrier over the commuter air carrier's routes'' are substituted for ''transportation over its routes'' for clarity. The words ''between air carriers and commuter air carriers'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 46301 of this title.

§ 41506. Price division filing requirements for foreign air transportation

Every air carrier and foreign air carrier shall keep currently on file with the Secretary of Transportation, if the Secretary requires, the established divisions of all joint prices for foreign air transportation in which the carrier participates.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1134.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41506	49 App.:1373(d).	Aug. 23, 1958, Pub. L. 85–726, § 403(d), 72 Stat. 759.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(d)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(4)(B) (related to § 403(d)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), (e), 98 Stat. 1703, 1704.

The words ''foreign air transportation'' are substituted for ''air transportation'' because 49 App.:1551(a)(4)(B) provides that 49 App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs rates for the transportation of mail by aircraft. See section 40102(a) of the revised title defining ''air transportation'' to mean interstate or foreign air transportation or the transportation of mail by aircraft.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41110 of this title.

§ 41507. Authority of the Secretary of Transportation to change prices, classifications, rules, and practices for foreign air transportation

(a) GENERAL.—When the Secretary of Transportation decides that a price charged or received by an air carrier or foreign air carrier for foreign air transportation, or a classification, rule, or practice affecting that price or the value of the transportation provided under that price, is or will be unreasonably discriminatory, the Secretary may—

(1) change the price, classification, rule, or practice as necessary to correct the discrimination; and

(2) order the air carrier or foreign air carrier to stop charging or collecting the discriminatory price or carrying out the discriminatory classification, rule, or practice.

(b) WHEN SECRETARY MAY ACT.—The Secretary may act under this section on the Secretary's own initiative or on a complaint filed with the Secretary and only after notice and an opportunity for a hearing.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1134.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41507(a)	49 App.:1482(f) (words after 4th comma).	Aug. 23, 1958, Pub. L. 85–726, § 1002(f), 72 Stat. 789.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41507(b)	49 App.:1482(f) (words before 4th comma).	
	49 App.:1551(b)(1)(E).	

In subsection (a), before clause (1), the words ''individual or joint'' are omitted as surplus. The words ''charged or received'' are substituted for ''demanded, charged, collected, or received'' to eliminate unnecessary words. The words ''unreasonably discriminatory'' are substituted for ''unjustly discriminatory, or unduly preferential, or unduly prejudicial'' for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101. In clause (2), the words ''carrying out'' are substituted for ''enforcing'' for clarity.

In subsection (b), the words ''opportunity for a'' are added for consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41310, 41503, 46301 of this title.

§ 41508. Authority of the Secretary of Transportation to adjust divisions of joint prices for foreign air transportation

(a) GENERAL.—When the Secretary of Transportation decides that a division between air carriers, foreign air carriers, or both, of a joint price for foreign air transportation is or will be unreasonable or unreasonably discriminatory against any of those carriers, the Secretary shall prescribe a reasonable division of the joint price among those carriers. The Secretary may order the adjustment in the division of the joint price to be made retroactively to the date the complaint was filed, the date the order for an investigation was made, or a later date the Secretary decides is reasonable.

(b) WHEN SECRETARY MAY ACT.—The Secretary may act under this section on the Secretary's own initiative or on a complaint filed with the Secretary and only after notice and an opportunity for a hearing.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1135.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41508(a)	49 App.:1482(h) (words after 3d comma).	Aug. 23, 1958, Pub. L. 85–726, § 1002(h), 72 Stat. 790; Nov. 9, 1977, Pub. L. 95–163, § 18(c), 91 Stat. 1287.
	49 App.:1551(a)(5)(D) (related to 49 App.:1482(h)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(5)(D) (related to § 1002(h)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), (e), 98 Stat. 1703, 1704.
41508(b)	49 App.:1482(h) (words before 3d comma).	
	49 App.:1551(a)(5)(D) (related to 49 App.:1482(h)), (b)(1)(E).	

In subsection (a), the words ''interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the state of Hawaii, or overseas or'' are omitted because 49:1551(a)(5)(D) provides that 49 App.:1482(h) applies only to foreign air transportation. The words ''unreasonable or unreasonably discriminatory'' are sub-

stituted for ''unjust, unreasonable, inequitable, or unduly preferential or prejudicial'' for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101. The words ''against any of those carriers'' are substituted for ''as between the air carriers or foreign air carriers parties thereto'' to eliminate unnecessary words. The word ''retroactively'' is added for clarity.

In subsection (b), the words ''an opportunity for a'' are added for consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41505, 46301 of this title.

§ 41509. Authority of the Secretary of Transportation to suspend, cancel, and reject tariffs for foreign air transportation

(a) CANCELLATION AND REJECTION.—(1) On the initiative of the Secretary of Transportation or on a complaint filed with the Secretary, the Secretary may conduct a hearing to decide whether a price for foreign air transportation contained in an existing or newly filed tariff of an air carrier or foreign air carrier, a classification, rule, or practice affecting that price, or the value of the transportation provided under that price, is lawful. The Secretary may begin the hearing at once and without an answer or another formal pleading by the air carrier or foreign air carrier, but only after reasonable notice. If, after the hearing, the Secretary decides that the price, classification, rule, or practice is or will be unreasonable or unreasonably discriminatory, the Secretary may cancel or reject the tariff and prevent the use of the price, classification, rule, or practice.

(2) With or without a hearing, the Secretary may cancel or reject an existing or newly filed tariff of a foreign air carrier and prevent the use of a price, classification, rule, or practice when the Secretary decides that the cancellation or rejection is in the public interest.

(3) In deciding whether to cancel or reject a tariff of an air carrier or foreign air carrier under this subsection, the Secretary shall consider—

(A) the effect of the price on the movement of traffic;

(B) the need in the public interest of adequate and efficient transportation by air carriers and foreign air carriers at the lowest cost consistent with providing the transportation;

(C) the standards prescribed under law related to the character and quality of transportation to be provided by air carriers and foreign air carriers;

(D) the inherent advantages of transportation by aircraft;

(E) the need of the air carrier and foreign air carrier for revenue sufficient to enable the air carrier and foreign air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier and foreign air carrier transportation;

(F) whether the price will be predatory or tend to monopolize competition among air carriers and foreign air carriers in foreign air transportation;

(G) reasonably estimated or foreseeable future costs and revenues for the air carrier or foreign air carrier for a reasonably limited future period during which the price would be in effect; and

(H) other factors.

(b) SUSPENSION.—(1)(A) Pending a decision under subsection (a)(1) of this section, the Secretary may suspend a tariff and the use of a price contained in the tariff or a classification, rule, or practice affecting that price.

(B) The Secretary may suspend a tariff of a foreign air carrier and the use of a price, classification, rule, or practice when the suspension is in the public interest.

(2) A suspension becomes effective when the Secretary files with the tariff and delivers to the air carrier or foreign air carrier affected by the suspension a written statement of the reasons for the suspension. To suspend a tariff, reasonable notice of the suspension must be given to the affected carrier.

(3) The suspension of a newly filed tariff may be for periods totaling not more than 365 days after the date the tariff otherwise would go into effect. The suspension of an existing tariff may be for periods totaling not more than 365 days after the effective date of the suspension. The Secretary may rescind at any time the suspension of a newly filed tariff and allow the price, classification, rule, or practice to go into effect.

(c) EFFECTIVE TARIFFS AND PRICES WHEN TARIFF IS SUSPENDED, CANCELED, OR REJECTED.—(1) If a tariff is suspended pending the outcome of a proceeding under subsection (a) of this section and the Secretary does not take final action in the proceeding during the suspension period, the tariff goes into effect at the end of that period subject to cancellation when the proceeding is concluded.

(2)(A) During the period of suspension, or after the cancellation or rejection, of a newly filed tariff (including a tariff that has gone into effect provisionally), the affected air carrier or foreign air carrier shall maintain in effect and use—

(i) the corresponding seasonal prices, or the classifications, rules, and practices affecting those prices or the value of transportation provided under those prices, that were in effect for the carrier immediately before the new tariff was filed; or

(ii) another price provided for under an applicable intergovernmental agreement or understanding.

(B) If the suspended, canceled, or rejected tariff is the first tariff of the carrier for the covered transportation, the carrier, for the purpose of operations during the period of suspension or pending effectiveness of a new tariff, may file another tariff containing a price or another classification, rule, or practice affecting the price, or the value of the transportation provided under the price, that is in effect (and not subject to a suspension order) for any air carrier providing the same transportation.

(3) If an existing tariff is suspended or canceled, the affected air carrier or foreign air carrier, for the purpose of operations during the period of suspension or pending effectiveness of a new tariff, may file another tariff containing a price or another classification, rule, or practice

affecting the price, or the value of the transportation provided under the price, that is in effect (and not subject to a suspension order) for any air carrier providing the same transportation.

(d) RESPONSE TO REFUSAL OF FOREIGN COUNTRY TO ALLOW AIR CARRIER TO CHARGE A PRICE.—When the Secretary finds that the government or an aeronautical authority of a foreign country has refused to allow an air carrier to charge a price contained in a tariff filed and published under section 41504 of this title for foreign air transportation to the foreign country—

(1) the Secretary, without a hearing—

(A) may suspend any existing tariff of a foreign air carrier providing transportation between the United States and the foreign country for periods totaling not more than 365 days after the date of the suspension; and

(B) may order the foreign air carrier to charge, during the suspension periods, prices that are the same as those contained in a tariff (designated by the Secretary) of an air carrier filed and published under section 41504 of this title for foreign air transportation to the foreign country; and

(2) a foreign air carrier may continue to provide foreign air transportation to the foreign country only if the government or aeronautical authority of the foreign country allows an air carrier to start or continue foreign air transportation to the foreign country at the prices designated by the Secretary.

(e) STANDARD FOREIGN FARE LEVEL.—(1)(A) In this subsection, ''standard foreign fare level'' means—

(i) for a class of fares existing on October 1, 1979, the fare between 2 places (as adjusted under subparagraph (B) of this paragraph) filed for and allowed by the Civil Aeronautics Board to go into effect after September 30, 1979, and before August 13, 1980 (with seasonal fares adjusted by the percentage difference that prevailed between seasons in 1978), or the fare established under section 1002(j)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 24(a) of the International Air Transportation Competition Act of 1979 (Public Law 96–192, 94 Stat. 46); or

(ii) for a class of fares established after October 1, 1979, the fare between 2 places in effect on the effective date of the establishment of the new class.

(B) At least once every 60 days for fuel costs, and at least once every 180 days for other costs, the Secretary shall adjust the standard foreign fare level for the particular foreign air transportation to which the standard foreign fare level applies by increasing or decreasing that level by the percentage change from the last previous period in the actual operating cost for each available seat-mile. In adjusting a standard foreign fare level, the Secretary may not make an adjustment to costs actually incurred. In establishing a standard foreign fare level and making adjustments in the level under this paragraph, the Secretary may use all relevant or appropriate information reasonably available to the Secretary.

(2) The Secretary may not decide that a proposed fare for foreign air transportation is unreasonable on the basis that the fare is too low or too high if the proposed fare is neither more than 5 percent higher nor 50 percent lower than the standard foreign fare level for the same or essentially similar class of transportation. The Secretary by regulation may increase the 50 percent specified in this paragraph.

(3) Paragraph (2) of this subsection does not apply to a proposed fare that is not more than—

(A) 5 percent higher than the standard foreign fare level when the Secretary decides that the proposed fare may be unreasonably discriminatory or that suspension of the fare is in the public interest because of an unreasonable regulatory action by the government of a foreign country that is related to a fare proposal of an air carrier; or

(B) 50 percent lower than the standard foreign fare level when the Secretary decides that the proposed fare may be predatory or discriminatory or that suspension of the fare is required because of an unreasonable regulatory action by the government of a foreign country that is related to a fare proposal of an air carrier.

(f) SUBMISSION OF ORDERS TO PRESIDENT.—The Secretary shall submit to the President an order made under this section suspending, canceling, or rejecting a price for foreign air transportation, and an order rescinding the effectiveness of such an order, before publishing the order. Not later than 10 days after its submission, the President may disapprove the order on finding disapproval is necessary for United States foreign policy or national defense reasons.

(g) COMPLIANCE AS CONDITION OF CERTIFICATE OR PERMIT.—This section and compliance with an order of the Secretary under this section are conditions to any certificate or permit held by an air carrier or foreign air carrier. An air carrier or foreign air carrier may provide foreign air transportation only as long as the carrier maintains prices for that transportation that comply with this section and orders of the Secretary under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1135.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41509(a)(1) ..	49 App.:1482(j)(1) (1st sentence words before semicolon, 2d sentence related to tariffs of air carriers and foreign air carriers), (2) (1st sentence words before semicolon, 2d sentence related to tariffs of air carriers and foreign air carriers).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1002(j)(1), (2); added Mar. 22, 1972, Pub. L. 92–259, § 3(a), 86 Stat. 96; restated Feb. 15, 1980, Pub. L. 96–192, §§ 14, 15, 94 Stat. 40.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(4)(B) (related to § 403(c)(3)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), (e), 98 Stat. 1703, 1704.
41509(a)(2) ..	49 App.:1482(j)(1) (2d sentence related to tariffs of foreign air carriers), (2) (2d sentence related to tariffs of foreign air carriers).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1551(b)(1)(E).	
41509(a)(3) ..	49 App.:1482(j)(5).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1002(j)(5); added Mar. 22, 1972, Pub. L. 92–259, §3(a), 86 Stat. 98; Feb. 15, 1980, Pub. L. 96–192, §16, 94 Stat. 42.
	49 App.:1551(b)(1)(E).	
41509(b)	49 App.:1373(c)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §403(c)(3); added Oct. 24, 1978, Pub. L. 95–504, §22, 92 Stat. 1724.
	49 App.:1482(j)(1) (1st sentence words after semicolon, 3d sentence), (2) (1st sentence words after semicolon).	
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(c)(3)), (b)(1)(E).	
41509(c)(1) ..	49 App.:1482(j)(1) (4th sentence), (2) (3d sentence).	
	49 App.:1551(b)(1)(E).	
41509(c)(2) ..	49 App.:1482(j)(1) (5th, last sentences).	
41509(c)(3) ..	49 App.:1482(j)(2) (last sentence).	
41509(d)	49 App.:1482(j)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1002(j)(3), (4); added Mar. 22, 1972, Pub. L. 92–259, §3(a), 86 Stat. 98.
	49 App.:1551(b)(1)(E).	
41509(e)(1)(A).	49 App.:1482(j)(7).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1002(j)(6), (7), (9), (10); added Feb. 15, 1980, Pub. L. 96–192, §24(a), 94 Stat. 45, 47.
41509(e)(1)(B).	49 App.:1482(j)(9).	
	49 App.:1551(b)(1)(E).	
41509(e)(2), (3).	49 App.:1482(j)(6), (10).	
	49 App.:1551(b)(1)(E).	
41509(f)	49 App.:1461(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §801(b); added Mar. 22, 1972, Pub. L. 92–259, §2, 86 Stat. 96.
	49 App.:1551(b)(1)(E).	
41509(g)	49 App.:1482(j)(4).	
	49 App.:1551(b)(1)(E).	

In subsection (a)(1) and (2), the words ''take action to'' are omitted as surplus.

In subsection (a)(1), the words ''individual or joint (between air carriers, between foreign air carriers, or between an air carrier or carriers and a foreign air carrier or carriers)'' and ''and, if it so orders'' are omitted as surplus. The words ''unreasonable or unreasonably discriminatory'' are substituted for ''unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial'' for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101.

In subsection (a)(3), before clause (A), the words ''In deciding whether to cancel or reject a tariff of an air carrier or foreign air carrier under this subsection'' are substituted for ''In exercising and performing its powers and duties under this subsection with respect to the rejection or cancellation of rates for the carriage of persons or property'' for consistency in this section and to eliminate unnecessary words. In clause (B), the words ''of persons and property'' are omitted as surplus.

In subsection (b)(1), the words ''contained in the tariff'' are added for clarity.

In subsection (b)(1)(A), the words ''such hearing and'' are omitted as surplus.

In subsection (b)(1)(B), the words ''or in the case of'' are omitted as surplus.

In subsection (b)(2), the text of 49 App.:1373(c)(3) is omitted as obsolete. Reference to 49 App.:1482(g) is omitted because 49 App.:1482(g) does not relate to foreign air transportation and 49 App.:1551(a)(5)(D) provides that 49 App.:1482(g) ceased to be in effect on January 1, 1985, except insofar as it related to foreign air transportation. Reference to 49 App.:1482(j) is omitted because it consistently has been interpreted that the minimum notice requirement does not apply to foreign air transportation.

In subsection (b)(3), the words ''for periods totaling not more than 365 days after'' are substituted for ''a period or periods not exceeding 365 days in the aggregate beyond the time when'' and ''a period or periods not exceeding 365 days in the aggregate from'' to eliminate unnecessary words.

In subsection (c)(1), the words ''a tariff is suspended pending the outcome of a proceeding under subsection (a) of this section'' are added for clarity. The words ''and the Secretary does not take final action in the proceeding during the suspension period'' are substituted for ''the proceeding has not been concluded and an order made within the period of suspension or suspensions'' and ''the proceeding has not been concluded within the period of suspension or suspensions'' to eliminate unnecessary words. The words ''or if the Board shall otherwise so direct'' are omitted as surplus because under subsection (b)(3) of this section the Secretary may rescind a suspension at any time.

In subsection (c)(2)(A), before clause (i), the words ''or suspensions'' are omitted because of 1:1. In clause (i), the words ''corresponding seasonal'' are added for clarity.

In subsection (c)(2)(B) and (3), the words ''providing the same transportation'' are substituted for ''engaged in the same foreign air transportation'' for consistency in this chapter and to eliminate unnecessary words.

In subsection (c)(2)(B), the words ''of the carrier for the covered transportation'' and ''during the period of suspension or'' are added for clarity.

In subsection (c)(3), the words ''If an existing tariff is suspended or canceled'' are added for clarity. The words ''following cancellation of an existing tariff'' are omitted as surplus.

In subsection (d), the word ''properly'' is omitted as surplus. In clause (1)(A), the words ''the operation of'' are omitted as surplus. The words ''periods totaling not more than 365 days after the date of the suspension'' are substituted for ''for a period or periods not exceeding three hundred and sixty-five days in the aggregate from the date of such suspension'' for clarity and to eliminate unnecessary words. In subclause (B), the words ''or suspensions'' are omitted because of 1:1. In clause (2), the words ''by the Secretary'' are added for clarity.

In subsection (e)(1)(B), the words ''within 30 days after February 15, 1980'' are omitted as executed. The words ''as the case may be'' are omitted as surplus.

In subsection (e)(2), the text of 49 App.:1482(j)(6)(A) is omitted as expired. The words ''with respect to any proposed increase filed with the Board after the 180th day after February 15, 1980'' and ''with respect to any proposed decrease filed after February 15, 1980'' are omitted as obsolete. The words ''of persons'' are omitted as surplus because a ''fare'' is only for passengers. The words ''The Secretary by regulation may increase the 50 percent specified in this paragraph'' are substituted for 49 App.:1482(j)(10) for clarity.

In subsection (e)(3)(A), the words ''unreasonably discriminatory'' are substituted for ''unduly preferential, unduly prejudicial, or unjustly discriminatory'' to eliminate unnecessary words and for consistency in the revised title. See the revision notes following 49:10101.

In subsection (g), the words ''express'' and ''now . . . or hereafter issued'' are omitted as surplus. The words ''may provide foreign air transportation only as long as'' are substituted for ''shall be a condition to the continuation of the affected service'' for clarity.

REFERENCES IN TEXT

Section 1002(j)(8) of the Federal Aviation Act of 1958, referred to in subsec. (e)(1)(A)(i), is section 1002(j)(8) of Pub. L. 85–726, which was classified to section 1482(j)(8) of former Title 49, Transportation, prior to repeal by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 41310, 41504, 41505, 46110, 46301 of this title.

§ 41510. Required adherence to foreign air transportation tariffs

(a) PROHIBITED ACTIONS BY AIR CARRIERS, FOREIGN AIR CARRIERS, AND TICKET AGENTS.—An air carrier, foreign air carrier, or ticket agent may not—

(1) charge or receive compensation for foreign air transportation that is different from the price specified in the tariff of the carrier that is in effect for that transportation;

(2) refund or remit any part of the price specified in the tariff; or

(3) extend to any person a privilege or facility, related to a matter required by the Secretary of Transportation to be specified in a tariff for foreign air transportation, except as specified in the tariff.

(b) PROHIBITED ACTIONS BY ANY PERSON.—A person may not knowingly—

(1) pay compensation for foreign air transportation of property that is different from the price specified in the tariff in effect for that transportation; or

(2) solicit, accept, or receive—

(A) a refund or remittance of any part of the price specified in the tariff; or

(B) a privilege or facility, related to a matter required by the Secretary to be specified in a tariff for foreign air transportation of property, except as specified in the tariff.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1138.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41510(a)	49 App.:1373(b)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §403(b)(1) (1st sentence), 72 Stat. 759; restated Jan. 3, 1975, Pub. L. 93–623, §§7(a), 8(a), 88 Stat. 2105.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(b)(1)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(B) (related to §403(b)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(c), (e), 98 Stat. 1703, 1704.
41510(b)	49 App.:1373(b)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §403(b)(2); added Jan. 3, 1975, Pub. L. 93–623, §8(a), 88 Stat. 2105.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(b)(2)), (b)(1)(E).	

In this section, the words ''greater or less'' are omitted as being included in ''different''. The words ''foreign air transportation'' are substituted for ''air transportation'' because 49 App.:1551(a)(4)(B) provides that 49 App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs prices for the transportation of mail by aircraft. See section 40102(a) of the revised title defining ''air transportation'' to mean interstate or foreign air transportation or the transportation of mail by aircraft. The words ''for any service in connection therewith'' are omitted as surplus because the word ''transportation'' includes any services related to the transportation.

In subsection (a), before clause (1), the words ''may not'' are substituted for ''no . . . shall'' and ''no . . . shall, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise'' for clarity and to eliminate unnecessary words. In clause (1), the words ''demand or collect'' are omitted as being included in ''charge or receive''. The words ''then currently'' are omitted as surplus. In clause (3), the words ''tariff for foreign air transportation'' are substituted for ''such tariffs'' for clarity.

In subsection (b), before clause (1), the words ''shipper, consignor, consignee, forwarder, broker, or other . . . or any director, officer, agent, or employee thereof'' are omitted as surplus. In clause (1), the words ''directly or indirectly, by any device or means'' and ''currently'' are omitted as surplus. In clause (2), before subclause (A), the words ''in any manner or by any device, directly or indirectly, through any agent or broker, or otherwise'' are omitted as surplus. In subclause (B), the word ''favor'' is omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41110 of this title.

§ 41511. Special prices for foreign air transportation

(a) FREE AND REDUCED PRICING.—This chapter does not prohibit an air carrier or foreign air carrier, under terms the Secretary of Transportation prescribes, from issuing or interchanging tickets or passes for free or reduced-price foreign air transportation to or for the following:

(1) a director, officer, or employee of the carrier (including a retired director, officer, or employee who is receiving retirement benefits from an air carrier or foreign air carrier).

(2) a parent or the immediate family of such an officer or employee or the immediate family of such a director.

(3) a widow, widower, or minor child of an employee of the carrier who died as a direct result of a personal injury sustained when performing a duty in the service of the carrier.

(4) a witness or attorney attending a legal investigation in which the air carrier is interested.

(5) an individual injured in an aircraft accident and a physician or nurse attending the individual.

(6) a parent or the immediate family of an individual injured or killed in an aircraft accident when the transportation is related to the accident.

(7) an individual or property to provide relief in a general epidemic, pestilence, or other emergency.

(8) other individuals under other circumstances the Secretary prescribes by regulation.

(b) SPACE-AVAILABLE BASIS.—Under terms the Secretary prescribes, an air carrier or foreign air carrier may grant reduced-price foreign air transportation on a space-available basis to the following:

(1) a minister of religion.

(2) an individual who is at least 60 years of age and no longer gainfully employed.

(3) an individual who is at least 65 years of age.

(4) an individual who has severely impaired vision or hearing or another physical or mental handicap and an accompanying attendant needed by that individual.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1139.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41511(a)	49 App.:1373(b)(1) (2d sentence).	Aug. 23, 1958, Pub. L. 85–726, §403(b)(1) (2d– last sentences), 72 Stat. 759; July 12, 1960, Pub. L. 86–627, 74 Stat. 445; Jan. 3, 1975, Pub. L. 93–623, §8(a), 88 Stat. 2105; Nov. 9, 1977, Pub. L. 95–163, §8(a), 91 Stat. 1281.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(b)(1)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(B) (related to §403(b)(1)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(c), (e), 98 Stat. 1703, 1704.
41511(b)	49 App.:1373(b)(1) (3d–last sentences).	
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(b)(1)), (b)(1)(E).	

In this section, the words ''foreign air transportation'' are substituted for ''transportation'' and ''in the case of overseas or foreign air transportation'' because 49 App.:1551(a)(4)(B) provides that 49 App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs rates for the transportation of mail by aircraft. See section 40102(a) of the revised title defining ''air transportation'' to mean interstate or foreign air transportation or the transportation of mail by aircraft. The word ''conditions'' is omitted as being included in ''terms''.

In subsection (a)(7), the words ''or other emergency'' are substituted for ''other calamitous visitation'' for consistency.

In subsection (b)(2), the words ''no longer gainfully employed'' are substituted for ''retired'' and ''For purposes of this subsection, the term 'retired' means no longer gainfully employed as defined by the Board'' to eliminate unnecessary words.

In subsection (b)(4), the words ''an individual who has severely impaired vision or hearing or another physical or mental handicap'' are substituted for ''handicapped person'' and ''For the purposes of this subsection, the term 'handicapped person' means any person who has severely impaired vision or hearing, and any other physically or mentally handicapped person, as defined by the Board'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41110 of this title.

CHAPTER 417—OPERATIONS OF CARRIERS

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41702. Interstate air transportation.
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41705. Discrimination against handicapped individuals.
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AMENDMENTS

1996—Pub. L. 104–264, title II, §278(d), Oct. 9, 1996, 110 Stat. 3250, substituted ''Essential air service authorization'' for ''Ending effective date'' in item 41742.

1994—Pub. L. 103–429, §6(52), Oct. 31, 1994, 108 Stat. 4385, made technical correction to chapter heading.

Pub. L. 103–305, title II, §§206(b), 207(b), Aug. 23, 1994, 108 Stat. 1587, 1588, added items 41714 and 41715.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 40109, 46301 of this title.

SUBCHAPTER I—REQUIREMENTS

§ 41701. Classification of air carriers

The Secretary of Transportation may establish—

(1) reasonable classifications for air carriers when required because of the nature of the transportation provided by them; and

(2) reasonable requirements for each class when the Secretary decides those requirements are necessary in the public interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1140.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41701	49 App.:1386(a).	Aug. 23, 1958, Pub. L. 85–726, §416(a), 72 Stat. 771.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In this section, before clause (1), the words ''from time to time'' are omitted as unnecessary. In clauses (1) and (2), the word ''just'' is omitted as being included in ''reasonable''. In clause (1), the word ''groups'' is omitted as being included in ''classifications''. The words ''transportation provided'' are substituted for ''services performed'' for consistency in the revised title. In clause (2), the word ''requirements'' is substituted for ''rules and regulations pursuant to and consistent with the provisions of this subchapter'' as being more appropriate and for consistency in the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41110 of this title.

§ 41702. Interstate air transportation

An air carrier shall provide safe and adequate interstate air transportation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1140.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41702	49 App.:1374(a)(1).	Aug. 23, 1958, Pub. L. 85–726, §404(a)(1), 72 Stat. 760; Mar. 22, 1972, Pub. L. 92–259, §1, 86 Stat. 95; Oct. 24, 1978, Pub. L. 95–504, §23, 92 Stat. 1724.
	49 App.:1551(a)(4)(C) (related to 49 App.:1374(a)(1)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(C) (related to §404(a)(1)); added Oct. 4, 1984, Pub. L. 98–443, §3(c), 98 Stat. 1703.

This section is substituted for 49 App.:1374(a)(1) because 49 App.:1551(a)(4)(C) provides that 49 App.:1374 no longer applies to interstate or overseas air transportation except insofar as 49 App.:1374 requires air carriers to provide safe and adequate service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41110 of this title.

§ 41703. Navigation of foreign civil aircraft

(a) PERMITTED NAVIGATION.—A foreign aircraft, not part of the armed forces of a foreign country, may be navigated in the United States only—

(1) if the country of registry grants a similar privilege to aircraft of the United States;

(2) by an airman holding a certificate or license issued or made valid by the United States Government or the country of registry;

(3) if the Secretary of Transportation authorizes the navigation; and

(4) if the navigation is consistent with terms the Secretary may prescribe.

(b) REQUIREMENTS FOR AUTHORIZING NAVIGATION.—The Secretary may authorize navigation under this section only if the Secretary decides the authorization is—

(1) in the public interest; and

(2) consistent with any agreement between the Government and the government of a foreign country.

(c) PROVIDING AIR COMMERCE.—The Secretary may authorize an aircraft permitted to navigate in the United States under this section to provide air commerce in the United States. However, the aircraft may take on for compensation, at a place in the United States, passengers or cargo destined for another place in the United States only if—

(1) specifically authorized under section 40109(g) of this title; or

(2) under regulations the Secretary prescribes authorizing air carriers to provide otherwise authorized air transportation with foreign registered aircraft under lease or charter to them without crew.

(d) PERMIT REQUIREMENTS NOT AFFECTED.—This section does not affect section 41301 or 41302 of this title. However, a foreign air carrier holding a permit under section 41302 does not need to obtain additional authorization under this section for an operation authorized by the permit.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1140.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41703(a)	49 App.:1508(b) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §1108(b) (1st, 2d, last sentences), 72 Stat. 798, 799.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41703(b)	49 App.:1508(b) (2d sentence).	
	49 App.:1551(b)(1)(E).	
41703(c)	49 App.:1508(b) (3d sentence).	Aug. 23, 1958, Pub. L. 85–726, §1108(b) (3d sentence), 72 Stat. 799; Feb. 15, 1980, Pub. L. 96–192, §20, 94 Stat. 43.
	49 App.:1551(b)(1)(E).	
41703(d)	49 App.:1508(b) (last sentence).	

In subsection (a), the word ''country'' is substituted for ''nation'' for consistency in the revised title and with other titles of the United States Code. In clause (3), the words ''permit, order, or regulation issued'' are omitted as surplus. In clause (4), the words ''conditions, and limitations'' are omitted as being included in ''terms''.

In subsection (b)(2), the word ''agreement'' is substituted for ''treaty, convention, or agreement'' for clarity and consistency in the revised title. The words ''which may be in force'' are omitted as surplus. The words ''or countries'' are omitted because of 1:1.

In subsection (c), before clause (1), the word ''place'' is substituted for ''point'', and the word ''passengers'' is substituted for ''persons'', for consistency in the revised title.

In subsection (d), the word ''affect'' is substituted for ''limit, modify, or amend'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40103, 40109, 44101, 46301 of this title.

§ 41704. Transporting property not to be transported in aircraft cabins

Under regulations or orders of the Secretary of Transportation, an air carrier shall transport as baggage the property of a passenger traveling in air transportation that may not be carried in an aircraft cabin because of a law or regulation of the United States. The carrier is liable to pay an amount not more than the amount declared to the carrier by that passenger for actual loss of, or damage to, the property caused by the carrier. The carrier may impose reasonable charges and conditions for its liability.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1141.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41704	49 App.:1516.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1116; added Aug. 5, 1974, Pub. L. 93–366, §205, 88 Stat. 418.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

The words ''as may be necessary'', ''which . . . lawfully'', and ''by such person'' are omitted as surplus. The words ''The carrier is liable to pay an amount not more than'' are substituted for ''shall assume liability . . . within'' for clarity. The words ''to such person'' are omitted as surplus. The words ''The carrier may impose'' are added for clarity. The words ''terms and'' are omitted as covered by ''conditions''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 46301 of this title.

§ 41705. Discrimination against handicapped individuals

In providing air transportation, an air carrier may not discriminate against an otherwise qualified individual on the following grounds:

(1) the individual has a physical or mental impairment that substantially limits one or more major life activities.

(2) the individual has a record of such an impairment.

(3) the individual is regarded as having such an impairment.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1141.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41705	49 App.:1374(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §404(c); added Oct. 2, 1986, Pub. L. 99–435, §2(a), 100 Stat. 1080.

In this section, before clause (1), the words ''on the following grounds'' are substituted for ''by reason of such handicap'' and ''For purposes of paragraph (1) of this subsection the term 'handicapped individual' means any individual who'' because of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41110 of this title.

§ 41706. Prohibitions against smoking on scheduled flights

(a) GENERAL.—An individual may not smoke in the passenger cabin or lavatory of an aircraft on a scheduled airline flight segment in air transportation or intrastate air transportation that is—

(1) between places in a State of the United States, the District of Columbia, Puerto Rico, or the Virgin Islands;

(2) between a place in any jurisdiction referred to in clause (1) of this subsection (except Alaska and Hawaii) and a place in any other of those jurisdictions; or

(3)(A) scheduled for not more than 6 hours' duration; and

(B)(i) between a place referred to in clause (1) of this subsection (except Alaska and Hawaii) and Alaska or Hawaii; or

(ii) between Alaska and Hawaii.

(b) REGULATIONS.—The Secretary of Transportation shall prescribe regulations necessary to carry out this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1141.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41706	49 App.:1374(d)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §404(d)(1); added Dec. 22, 1987, Pub. L. 100–202, §328(a), 101 Stat. 1329–382; Nov. 21, 1989, Pub. L. 101–164, §335 (less effective date), 103 Stat. 1098, 1099.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1374 (note).	Nov. 21, 1989, Pub. L. 101–164, §335 (related to effective date), 103 Stat. 1099.

In subsection (a), before clause (1), the words ''On and after the date of expiration of the 4-month period following December 22, 1987'' are omitted as executed. The words ''of an aircraft'' are added for clarity. The text of 49 App.:1374 (note) is omitted as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41110 of this title.

§ 41707. Incorporating contract terms into written instrument

To the extent the Secretary of Transportation prescribes by regulation, an air carrier may incorporate by reference in a ticket or written instrument any term of the contract for providing interstate air transportation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1141.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41707	49 App.:1381(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §411(b); added Oct. 4, 1984, Pub. L. 98–443, §7(a), 98 Stat. 1706.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41110 of this title.

§ 41708. Reports

(a) APPLICATION.—To the extent the Secretary of Transportation finds necessary to carry out this subpart, this section and section 41709 of this title apply to a person controlling an air carrier or affiliated (within the meaning of section 11343(c) of this title) with a carrier.

(b) REQUIREMENTS.—The Secretary may require an air carrier or foreign air carrier—

(1)(A) to file annual, monthly, periodical, and special reports with the Secretary in the form and way prescribed by the Secretary; and

(B) to file the reports under oath;

(2) to provide specific answers to questions on which the Secretary considers information to be necessary; and

(3) to file with the Secretary a copy of each agreement, arrangement, contract, or understanding between the carrier and another carrier or person related to transportation affected by this subpart.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1141.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41708(a)	49 App.:1377(e) (last sentence). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, §407(e) (last sentence), 72 Stat. 766. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41708(b)	49 App.:1377(a).	Aug. 23, 1958, Pub. L. 85–726, § 407(a), 72 Stat. 766; Feb. 15, 1980, Pub. L. 96–192, § 10, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	

In subsection (a), the word ''reasonably'' is omitted as surplus. The words ''carry out'' are substituted for ''administration'' for consistency in the revised title. The words ''section 11343(c) of this title'' are substituted for ''section 5(8) of the Interstate Commerce Act, as amended'' in section 407(e) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 766), to cite the corresponding section of the revised title and correct the inaccurate reference to the definition of ''affiliate''.

In subsection (b)(3), the word ''copy'' is substituted for ''true copy'' to eliminate an unnecessary word. The word ''transportation'' is substituted for ''traffic'' for consistency in the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41110 of this title.

§ 41709. Records of air carriers

(a) REQUIREMENTS.—The Secretary of Transportation shall prescribe the form of records to be kept by an air carrier, including records on the movement of traffic, receipts and expenditures of money, and the time period during which the records shall be kept. A carrier may keep only records prescribed or approved by the Secretary. However, a carrier may keep additional records if the additional records do not impair the integrity of the records prescribed or approved by the Secretary and are not an unreasonable financial burden on the carrier.

(b) INSPECTION.—(1) The Secretary at any time may—

(A) inspect the land, buildings, and equipment of an air carrier or foreign air carrier when necessary to decide under subchapter II of this chapter or section 41102, 41103, or 41302 of this title whether a carrier is fit, willing, and able; and

(B) inspect records kept or required to be kept by an air carrier, foreign air carrier, or ticket agent.

(2) The Secretary may employ special agents or auditors to carry out this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1142.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41709(a)	49 App.:1377(d).	Aug. 23, 1958, Pub. L. 85–726, § 407(d), 72 Stat. 766.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41709(b)	49 App.:1377(e) (1st–3d sentences).	Aug. 23, 1958, Pub. L. 85–726, § 407(e) (1st–3d sentences), 72 Stat. 766; Jan. 3, 1975, Pub. L. 93–623, § 7(b), 88 Stat. 2105; restated Oct. 4, 1984, Pub. L. 98–443, § 9(t), 98 Stat. 1708.
	49 App.:1551(b)(1)(E).	

In subsection (a), the word ''unreasonable'' is substituted for ''undue'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1)(A) and (B), the word ''inspect'' is substituted for ''have access to'' for consistency in the revised title and with other titles of the Code.

In subsection (b)(2), the words ''to carry out this subsection'' are substituted for ''who shall have authority under the orders of the Board to inspect and examine lands, buildings, equipment, accounts, records, and memorandums to which the Board has access under this subsection'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41110, 41708 of this title.

§ 41710. Time requirements

When a matter requiring action of the Secretary of Transportation is submitted under section 40109(a) or (c)–(h), 41309, or 42111 of this title and an evidentiary hearing—

(1) is ordered, the Secretary shall make a final decision on the matter not later than the last day of the 12th month that begins after the date the matter is submitted; or

(2) is not ordered, the Secretary shall make a final decision on the matter not later than the last day of the 6th month that begins after the date the matter is submitted.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1142.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41710	49 App.:1490.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1010; added Oct. 24, 1978, Pub. L. 95–504, § 38(a), 92 Stat. 1743.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In this section, before clause (1), the words ''matter requiring action of the Secretary'' are substituted for ''application or other written document'' for clarity. The reference to 49 App.:1378 and 1379 is omitted as obsolete because under 49 App.:1551(a)(7), those sections ceased to be in effect on January 1, 1989. The words ''on or after the one-hundred-eightieth day after October 24, 1978'' are omitted as executed. In clauses (1) and (2), the words ''order or'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 46301 of this title.

§ 41711. Air carrier management inquiry and cooperation with other authorities

In carrying out this subpart, the Secretary of Transportation may—

(1) inquire into the management of the business of an air carrier and obtain from the air carrier, and a person controlling, controlled by, or under common control with the carrier, information the Secretary decides reasonably is necessary to carry out the inquiry;

(2) confer and hold a joint hearing with a State authority; and

(3) exchange information related to aeronautics with a government of a foreign country through appropriate departments, agencies, and instrumentalities of the United States Government.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1142.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41711(1)	49 App.:1385.	Aug. 23, 1958, Pub. L. 85–726, §§204(b), (c), 415, 72 Stat. 743, 770.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41711(2)	49 App.:1324(b). 49 App.:1551(b)(1)(E).	
41711(3)	49 App.:1324(c) 49 App.:1551(b)(1)(E).	

In this section, before clause (1), the words ''In carrying out'' are substituted for ''in connection with any matter arising under this chapter within its jurisdiction'' and ''in the administration and enforcement of this chapter'' in 49 App.:1324(b) and ''For the purpose of exercising and performing its powers and duties under this chapter'' in 49 App.:1385, and added (as the words relate to 49 App.:1324(c)), for clarity and consistency in this section. In clause (1), the words ''full and complete reports and other'' are omitted as surplus. In clause (2), the words ''State aeronautical agency, or other'' are omitted as surplus. The text of 49 App.:1324(b) (words after 3d comma) is omitted as surplus because of 49:322(c)(3). In clause (3), the words ''government of a foreign country'' are substituted for ''foreign governments'' for consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41110 of this title.

§ 41712. Unfair and deceptive practices and unfair methods of competition

On the initiative of the Secretary of Transportation or the complaint of an air carrier, foreign air carrier, or ticket agent, and if the Secretary considers it is in the public interest, the Secretary may investigate and decide whether an air carrier, foreign air carrier, or ticket agent has been or is engaged in an unfair or deceptive practice or an unfair method of competition in air transportation or the sale of air transportation. If the Secretary, after notice and an opportunity for a hearing, finds that an air carrier, foreign air carrier, or ticket agent is engaged in an unfair or deceptive practice or unfair method of competition, the Secretary shall order the air carrier, foreign air carrier, or ticket agent to stop the practice or method.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1143.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41712	49 App.:1381(a).	Aug. 23, 1958, Pub. L. 85–726, §411(a), 72 Stat. 769; Oct. 4, 1984, Pub. L. 98–443, §7(a), 98 Stat. 1706.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

The words ''such action by'' are omitted as surplus. The words ''opportunity for a'' are added for consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41110 of this title.

§ 41713. Preemption of authority over prices, routes, and service

(a) DEFINITION.—In this section, ''State'' means a State, the District of Columbia, and a territory or possession of the United States.

(b) PREEMPTION.—(1) Except as provided in this subsection, a State, political subdivision of a State, or political authority of at least 2 States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier that may provide air transportation under this subpart.

(2) Paragraphs (1) and (4) of this subsection do not apply to air transportation provided entirely in Alaska unless the transportation is air transportation (except charter air transportation) provided under a certificate issued under section 41102 of this title.

(3) This subsection does not limit a State, political subdivision of a State, or political authority of at least 2 States that owns or operates an airport served by an air carrier holding a certificate issued by the Secretary of Transportation from carrying out its proprietary powers and rights.

(4) TRANSPORTATION BY AIR CARRIER OR CARRIER AFFILIATED WITH A DIRECT AIR CARRIER.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier or carrier affiliated with a direct air carrier through common controlling ownership when such carrier is transporting property by aircraft or by motor vehicle (whether or not such property has had or will have a prior or subsequent air movement).

(B) MATTERS NOT COVERED.—Subparagraph (A)—

(i) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization; and

(ii) does not apply to the transportation of household goods, as defined in section 13102 of this title.

(C) APPLICABILITY OF PARAGRAPH (1).—This paragraph shall not limit the applicability of paragraph (1).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1143; Pub. L. 103–305, title VI, §601(b)(1), (2)(A), Aug. 23, 1994, 108 Stat. 1605, 1606; Pub. L. 105–102, §2(23), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41713(a)	49 App.:1305(c), (d) (related to (a), (b)(1), (c)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §105(a)(2), (b)(1), (c), (d) (related to (a), (b)(1), (c)); added Oct. 24, 1978, Pub. L. 95–504, §4(a), 92 Stat. 1708.
41713(b)(1) ..	49 App.:1305(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §105(a)(1); added Oct. 24, 1978, Pub. L. 95–504, §4(a), 92 Stat. 1707; Oct. 4, 1984, Pub. L. 98–443, §9(u), 98 Stat. 1709.
41713(b)(2) ..	49 App.:1305(a)(2). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41713(b)(3) ..	49 App.:1305(b)(1). 49 App.:1551(b)(1)(E).	

In subsection (a), the words ''the term'' are omitted as surplus. The words ''the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and'' are omitted as surplus because of the definition of ''territory or possession of the United States'' in section 40102(a) of the revised title, 48:734, and section 502 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America. The text of 49 App.:1305(c) is omitted as obsolete.

In subsection (b)(1) and (3), the words ''interstate agency or other'' are omitted as surplus. The word ''authority'' is substituted for ''agency'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the word ''rule'' is omitted as being synonymous with ''regulation''. The words ''standard'' and ''having authority'' are omitted as surplus.

In subsection (b)(2), the words ''pursuant to a certificate issued by the Board'', ''by air of persons, property, or mail'', and ''the State of'' are omitted as surplus.

PUB. L. 105–102

This amends 49:41713(b)(4)(B)(ii) to correct a cross-reference necessary because of the restatement of subtitle IV of title 49 by the ICC Termination Act (Public Law 104–88, 109 Stat. 803).

AMENDMENTS

1997—Subsec. (b)(4)(B)(ii). Pub. L. 105–102 substituted ''13102'' for ''10102''.

1994—Subsec. (b)(2). Pub. L. 103–305, §601(b)(2)(A), substituted ''Paragraphs (1) and (4) of this subsection do'' for ''Paragraph (1) of this subsection does''.

Subsec. (b)(4). Pub. L. 103–305, §601(b)(1), added par. (4).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–305 effective Jan. 1, 1995, see section 601(d) of Pub. L. 103–305, set out as a note under section 10521 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14501, 40109, 46301 of this title.

§ 41714. Availability of slots

(a) MAKING SLOTS AVAILABLE FOR ESSENTIAL AIR SERVICE.—

(1) OPERATIONAL AUTHORITY.—If basic essential air service under subchapter II of this chapter is to be provided from an eligible point to a high density airport (other than Washington National Airport), the Secretary of Transportation shall ensure that the air carrier providing or selected to provide such service has sufficient operational authority at the high density airport to provide such service. The operational authority shall allow flights at reasonable times taking into account the needs of passengers with connecting flights.

(2) EXEMPTIONS.—If necessary to carry out the objectives of paragraph (1), the Secretary shall by order grant exemptions from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to air carriers using Stage 3 aircraft or to commuter air carriers, unless such an exemption would significantly increase operational delays.

(3) ASSURANCE OF ACCESS.—If the Secretary finds that an exemption under paragraph (2) would significantly increase operational delays, the Secretary shall take such action as may be necessary to ensure that an air carrier providing or selected to provide basic essential air service is able to obtain access to a high density airport; except that the Secretary shall not be required to make slots available at O'Hare International Airport in Chicago, Illinois, if the number of slots available for basic essential air service (including slots specifically designated as essential air service slots and slots used for such purposes) to and from such airport is at least 132 slots.

(4) ACTION BY THE SECRETARY.—The Secretary shall issue a final order under this subsection on or before the 60th day after receiving a request from an air carrier for operational authority under this subsection.

(b) SLOTS FOR FOREIGN AIR TRANSPORTATION.—

(1) EXEMPTIONS.—If the Secretary finds it to be in the public interest at a high density airport (other than Washington National Airport), the Secretary may grant by order exemptions from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to enable air carriers and foreign air carriers to provide foreign air transportation using Stage 3 aircraft.

(2) SLOT WITHDRAWALS.—The Secretary may not withdraw a slot from an air carrier in order to allocate that slot to a carrier to provide foreign air transportation if the withdrawal of that slot would result in the withdrawal of slots from an air carrier at O'Hare International Airport under section 93.223 of title 14, Code of Federal Regulations, in excess of the total withdrawn from that air carrier as of October 31, 1993.

(3) EQUIVALENT RIGHTS OF ACCESS.—The Secretary shall not take a slot at a high density airport from an air carrier and award such slot to a foreign air carrier if the Secretary determines that air carriers are not provided equivalent rights of access to airports in the country of which such foreign air carrier is a citizen.

(4) PERIOD OF EFFECTIVENESS.—This subsection and exemptions issued under this subsection shall cease to be in effect when the final rules issued under subsection (f) become effective.

(c) SLOTS FOR NEW ENTRANTS.—

(1) IN GENERAL.—If the Secretary finds it to be in the public interest and the circumstances to be exceptional, the Secretary may by order grant exemptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to enable new entrant air carriers to provide air transportation at high density airports (other than Washington National Airport).

(2) PERIOD OF EFFECTIVENESS.—Exemptions issued under this subsection shall cease to be in effect on or after the date on which the final rules issued under subsection (f) become effective.

(d) SPECIAL RULES FOR WASHINGTON NATIONAL AIRPORT.—

(1) IN GENERAL.—Notwithstanding sections 49104(a)(5) and 49111(e) of this title, or any provision of this section, the Secretary may, only under circumstances determined by the Secretary to be exceptional, grant by order to an air carrier currently holding or operating a slot at Washington National Airport an exemption from requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at Washington National Airport), to enable that carrier to provide air transportation with Stage 3 aircraft at Washington National Airport; except that such exemption shall not—

(A) result in an increase in the total number of slots per day at Washington National Airport;

(B) result in an increase in the total number of slots at Washington National Airport from 7:00 ante meridiem to 9:59 post meridiem;

(C) increase the number of operations at Washington National Airport in any 1-hour period by more than 2 operations;

(D) result in the withdrawal or reduction of slots operated by an air carrier;

(E) result in a net increase in noise impact on surrounding communities resulting from changes in timing of operations permitted under this subsection; and

(F) continue in effect on or after the date on which the final rules issued under subsection (f) become effective.

(2) LIMITATION ON APPLICABILITY.—Nothing in this subsection shall adversely affect Exemption No. 5133, as from time-to-time amended and extended.

(e) STUDY.—

(1) MATTERS TO BE CONSIDERED.—The Secretary shall continue the Secretary's current examination of slot regulations and shall ensure that the examination includes consideration of—

(A) whether improvements in technology and procedures of the air traffic control system and the use of quieter aircraft make it possible to eliminate the limitations on hourly operations imposed by the high density rule contained in part 93 of title 14 of the Code of Federal Regulations or to increase the number of operations permitted under such rule;

(B) the effects of the elimination of limitations or an increase in the number of operations allowed on each of the following:

(i) congestion and delay in any part of the national aviation system;

(ii) the impact of noise on persons living near the airport;

(iii) competition in the air transportation system;

(iv) the profitability of operations of airlines serving the airport; and

(v) aviation safety;

(C) the impact of the current slot allocation process upon the ability of air carriers to provide essential air service under subchapter II of this chapter;

(D) the impact of such allocation process upon the ability of new entrant air carriers to obtain slots in time periods that enable them to provide service;

(E) the impact of such allocation process on the ability of foreign air carriers to obtain slots;

(F) the fairness of such process to air carriers and the extent to which air carriers are provided equivalent rights of access to the air transportation market in the countries of which foreign air carriers holding slots are citizens;

(G) the impact, on the ability of air carriers to provide domestic and international air service, of the withdrawal of slots from air carriers in order to provide slots for foreign air carriers; and

(H) the impact of the prohibition on slot withdrawals in subsections (b)(2) and (b)(3) of this section on the aviation relationship between the United States Government and foreign governments, including whether the prohibition in such subsections will require the withdrawal of slots from general and military aviation in order to meet the needs of air carriers and foreign air carriers providing foreign air transportation (and the impact of such withdrawal on general aviation and military aviation) and whether slots will become available to meet the needs of air carriers and foreign air carriers to provide foreign air transportation as a result of the planned relocation of Air Force Reserve units and the Air National Guard at O'Hare International Airport.

(2) REPORT.—Not later than January 31, 1995, the Secretary shall complete the current examination of slot regulations and shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the results of such examination.

(f) RULEMAKING.—The Secretary shall conduct a rulemaking proceeding based on the results of the study described in subsection (e). In the course of such proceeding, the Secretary shall issue a notice of proposed rulemaking not later than August 1, 1995, and shall issue a final rule not later than 90 days after public comments are due on the notice of proposed rulemaking.

(g) WEEKEND OPERATIONS.—The Secretary shall consider the advisability of revising sec-

tion 93.227 of title 14, Code of Federal Regulations, so as to eliminate weekend schedules from the determination of whether the 80 percent standard of subsection (a)(1) of that section has been met.

(h) DEFINITIONS.—In this section and section 41734(h), the following definitions apply:

(1) COMMUTER AIR CARRIER.—The term ''commuter air carrier'' means a commuter operator as defined or applied in subpart K or S of part 93 of title 14, Code of Federal Regulations.

(2) HIGH DENSITY AIRPORT.—The term ''high density airport'' means an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft.

(3) NEW ENTRANT AIR CARRIER.—The term ''new entrant air carrier'' means an air carrier that does not hold a slot at the airport concerned and has never sold or given up a slot at that airport after December 16, 1985, and a limited incumbent carrier as defined in subpart S of part 93 of title 14, Code of Federal Regulations.

(4) SLOT.—The term ''slot'' means a reservation for an instrument flight rule takeoff or landing by an air carrier of an aircraft in air transportation.

(i) EXPEDITIOUS CONSIDERATION OF CERTAIN EXEMPTION REQUESTS.—Within 120 days after receiving an application for an exemption under subsection (a)(2) to improve air service between a nonhub airport (as defined in section 41731(a)(4)) and a high density airport subject to the exemption authority under subsection (a), the Secretary shall grant or deny the exemption. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure of the grant or denial within 14 calendar days after the determination and state the reasons for the determination.

(Added Pub. L. 103–305, title II, § 206(a)(1), Aug. 23, 1994, 108 Stat. 1584; amended Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105–66, title III, § 345, Oct. 27, 1997, 111 Stat. 1449; Pub. L. 105–102, § 2(24), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:41714(d)(1) to make a conforming cross-reference necessary because of the restatement of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500, 100 Stat. 1783–373, Public Law 99–591, 100 Stat. 3341–376) by section 2(26) of this Act as chapter 491 of title 49.

AMENDMENTS

1997—Subsec. (d)(1). Pub. L. 105–102 substituted ''sections 49104(a)(5) and 49111(e) of this title'' for ''sections 6005(c)(5) and 6009(e) of the Metropolitan Washington Airports Act of 1986''.

Subsec. (i). Pub. L. 105–66 added subsec. (i).

1996—Subsec. (e)(2). Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 46301 of this title.

§ 41715. Air service termination notice

(a) IN GENERAL.—An air carrier may not terminate interstate air transportation from a nonhub airport included on the Secretary of Transportation's latest published list of such airports, unless such air carrier has given the Secretary at least 45 days' notice before such termination.

(b) EXCEPTIONS.—The requirements of subsection (a) shall not apply when—

(1) the carrier involved is experiencing a sudden or unforeseen financial emergency, including natural weather related emergencies, equipment-related emergencies, and strikes;

(2) the termination of transportation is made for seasonal purposes only;

(3) the carrier involved has operated at the affected nonhub airport for 180 days or less;

(4) the carrier involved provides other transportation by jet from another airport serving the same community as the affected nonhub airport; or

(5) the carrier involved makes alternative arrangements, such as a change of aircraft size, or other types of arrangements with a part 121 or part 135 air carrier, that continues uninterrupted service from the affected nonhub airport.

(c) WAIVERS FOR REGIONAL/COMMUTER CARRIERS.—Before January 1, 1995, the Secretary shall establish terms and conditions under which regional/commuter carriers can be excluded from the termination notice requirement.

(d) DEFINITIONS.—In this section, the following definitions apply:

(1) NONHUB AIRPORT.—The term ''nonhub airport'' has the meaning that term has under section 41731(a)(4).

(2) PART 121 AIR CARRIER.—The term ''part 121 air carrier'' means an air carrier to which part 121 of title 14, Code of Federal Regulations, applies.

(3) PART 135 AIR CARRIER.—The term ''part 135 air carrier'' means an air carrier to which part 135 of title 14, Code of Federal Regulations, applies.

(4) REGIONAL/COMMUTER CARRIERS.—The term ''regional/commuter carrier'' means—

(A) a part 135 air carrier; or

(B) a part 121 air carrier that provides air transportation exclusively with aircraft having a seating capacity of no more than 70 passengers.

(5) TERMINATION.—The term ''termination'' means the cessation of all service at an airport by an air carrier.

(Added Pub. L. 103–305, title II, § 207(a), Aug. 23, 1994, 108 Stat. 1587; amended Pub. L. 103–429, § 6(53), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–287, § 5(73), Oct. 11, 1996, 110 Stat. 3396.)

HISTORICAL AND REVISION NOTES

This amends 49:41715(a) to conform to the style of title 49.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–287 substituted ''Secretary of Transportation's'' for ''Secretary's''.

1994—Subsec. (d)(1). Pub. L. 103–429 substituted ''41731(a)(4)'' for ''41731(a)(3)''.

EFFECTIVE DATE

Section 207(d) of Pub. L. 103–305 provided that: ''The amendments made by this section [enacting this section and amending section 46301 of this title] shall take effect on February 1, 1995.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 46301 of this title.

SUBCHAPTER II—SMALL COMMUNITY AIR SERVICE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 329, 40117, 41709, 41714 of this title.

§ 41731. Definitions

(a) GENERAL.—In this subchapter—

(1) ''eligible place'' means a place in the United States that—

(A) was an eligible point under section 419 of the Federal Aviation Act of 1958 before October 1, 1988;

(B) received scheduled air transportation at any time after January 1, 1990; and

(C) is not listed in Department of Transportation Orders 89–9–37 and 89–12–52 as a place ineligible for compensation under this subchapter.

(2) ''enhanced essential air service'' means scheduled air transportation to an eligible place of a higher level or quality than basic essential air service described in section 41732 of this title.

(3) ''hub airport'' means an airport that each year has at least .25 percent of the total annual boardings in the United States.

(4) ''nonhub airport'' means an airport that each year has less than .05 percent of the total annual boardings in the United States.

(5) ''small hub airport'' means an airport that each year has at least .05 percent, but less than .25 percent, of the total annual boardings in the United States.

(b) LIMITATION ON AUTHORITY TO DECIDE A PLACE NOT AN ELIGIBLE PLACE.—The Secretary of Transportation may not decide that a place described in subsection (a)(1) of this section is not an eligible place on the basis of a passenger subsidy at that place or on another basis that is not specifically stated in this subchapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1143.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41731(a)(1) ..	49 App.:1389(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(a); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1508; restated Nov. 5, 1990, Pub. L. 101–508, §9113(a), 104 Stat. 1388–363.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41731(a)(2) ..	49 App.:1389(k)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(k)(2)–(5); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1517.
41731(a)(3) ..	49 App.:1389(k)(3).	
41731(a)(4) ..	49 App.:1389(k)(4).	
41731(a)(5) ..	49 App.:1389(k)(5).	
41731(b)	49 App.:1389(a)(2).	

In this subchapter (except subsection (a)(1)(A) of this section), the word ''place'' is substituted for ''point'' for clarity and consistency in the revised title.

In subsection (a)(1)(A), the words ''was an eligible point . . . before October 1, 1988'' are substituted for ''is defined as an eligible point . . . as in effect before October 1, 1988'' for clarity and to eliminate unnecessary words.

In subsection (a)(2), the words ''described in section 41732 of this title'' are added for clarity.

In subsection (a)(3)–(5), the word ''boardings'' is substituted for ''enplanements'' for clarity and consistency in the revised title.

REFERENCES IN TEXT

Section 419 of the Federal Aviation Act of 1958, referred to in subsec. (a)(1)(A), is section 419 of Pub. L. 85–726, which was classified to section 1389 of former Title 49, Transportation, and was repealed and reenacted as this subchapter by Pub. L. 103–272, §§1(e), 7(b), July 5, 1994, 108 Stat. 1143, 1379.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41110, 41714, 41715, 47115 of this title.

§ 41732. Basic essential air service

(a) GENERAL.—Basic essential air service provided under section 41733 of this title is scheduled air transportation of passengers and cargo—

(1) to a hub airport that has convenient connecting or single-plane air service to a substantial number of destinations beyond that airport; or

(2) to a small hub or nonhub airport, when in Alaska or when the nearest hub airport is more than 400 miles from an eligible place.

(b) MINIMUM REQUIREMENTS.—Basic essential air service shall include at least the following:

(1)(A) for a place not in Alaska, 2 daily round trips 6 days a week, with not more than one intermediate stop on each flight; or

(B) for a place in Alaska, a level of service at least equal to that provided in 1976 or 2 round trips a week, whichever is greater, except that the Secretary of Transportation and the appropriate State authority of Alaska may agree to a different level of service after consulting with the affected community.

(2) flights at reasonable times considering the needs of passengers with connecting flights at the airport and at prices that are not excessive compared to the generally prevailing prices of other air carriers for like service between similar places.

(3) for a place not in Alaska, service provided in an aircraft with an effective capacity

of at least 15 passengers if the average daily boardings at the place in any calendar year from 1976-1986 were more than 11 passengers unless—

(A) that level-of-service requirement would require paying compensation in a fiscal year under section 41733(d) or 41734(d) or (e) of this title for the place when compensation otherwise would not have been paid for that place in that year; or

(B) the affected community agrees with the Secretary in writing to the use of smaller aircraft to provide service to the place.

(4) service accommodating the estimated passenger and property traffic at an average load factor, for each class of traffic considering seasonal demands for the service, of not more than—

(A) 50 percent; or

(B) 60 percent when service is provided by aircraft with more than 14 passenger seats.

(5) service provided in aircraft with at least 2 engines and using 2 pilots, unless scheduled air transportation has not been provided to the place in aircraft with at least 2 engines and using 2 pilots for at least 60 consecutive operating days at any time since October 31, 1978.

(6) service provided by pressurized aircraft when the service is provided by aircraft that regularly fly above 8,000 feet in altitude.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1144.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41732(a)	49 App.:1389(k)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(k)(1); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.
41732(b)	49 App.:1389(k)(1) (last sentence).	

In subsection (a), before clause (1), the words ''provided under section 41733 of this title'' are added for clarity. In clause (2), the words ''from an eligible place'' are added for clarity.

In subsection (b), before clause (1), the words ''Basic essential air service'' are substituted for ''Such transportation'' for clarity and consistency in the revised title. In clause (1)(B), the word ''1976'' is substituted for ''calendar year 1976'' to eliminate unnecessary words. The words ''appropriate State authority of Alaska'' are substituted for ''State agency of the State of Alaska'' for clarity and consistency with the source provisions restated in section 41734(a) of the revised title. The words ''agree to a different level of service'' are substituted for ''otherwise specified under an agreement'' for clarity. In clause (2), the word ''prices'' is substituted for ''rates, fares, and charges'' and ''fares'' because of the definition of ''price'' in section 40102(a) of the revised title. In clause (3), before subclause (A), the word ''boardings'' is substituted for ''enplanements'' for clarity and consistency in the revised title. The words ''from 1976-1986'' are substituted for ''beginning after December 31, 1975, and ending on or before December 31, 1986'' to eliminate unnecessary words. In subclause (B), the words ''affected community'' are substituted for ''community concerned'' for consistency with the source provisions restated in clause (1)(B) of this section. In clause (5), the words ''for at least 60 consecutive operating days'' are substituted for ''on each of 60 consecutive operating days'' for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41110, 41731 of this title.

§ 41733. Level of basic essential air service

(a) DECISIONS MADE BEFORE OCTOBER 1, 1988.—For each eligible place for which a decision was made before October 1, 1988, under section 419 of the Federal Aviation Act of 1958, establishing the level of essential air transportation, the level of basic essential air service for that place shall be the level established by the Secretary of Transportation for that place by not later than December 29, 1988.

(b) DECISIONS NOT MADE BEFORE OCTOBER 1, 1988.—(1) The Secretary shall decide on the level of basic essential air service for each eligible place for which a decision was not made before October 1, 1988, establishing the level of essential air transportation, when the Secretary receives notice that service to that place will be provided by only one air carrier. The Secretary shall make the decision by the last day of the 6-month period beginning on the date the Secretary receives the notice. The Secretary may impose notice requirements necessary to carry out this subsection. Before making a decision, the Secretary shall consider the views of any interested community and the appropriate State authority of the State in which the community is located.

(2) Until the Secretary has made a decision on a level of basic essential air service for an eligible place under this subsection, the Secretary, on petition by an appropriate representative of the place, shall prohibit an air carrier from ending, suspending, or reducing air transportation to that place that appears to deprive the place of basic essential air service.

(c) AVAILABILITY OF COMPENSATION.—(1) If the Secretary decides that basic essential air service will not be provided to an eligible place without compensation, the Secretary shall provide notice that an air carrier may apply to provide basic essential air service to the place for compensation under this section. In selecting an applicant, the Secretary shall consider, among other factors—

(A) the demonstrated reliability of the applicant in providing scheduled air service;

(B) the contractual and marketing arrangements the applicant has made with a larger carrier to ensure service beyond the hub airport;

(C) the interline arrangements that the applicant has made with a larger carrier to allow passengers and cargo of the applicant at the hub airport to be transported by the larger carrier through one reservation, ticket, and baggage check-in;

(D) the preferences of the actual and potential users of air transportation at the eligible place, giving substantial weight to the views of the elected officials representing the users; and

(E) for an eligible place in Alaska, the experience of the applicant in providing, in Alaska, scheduled air service, or significant patterns of non-scheduled air service under an exemption granted under section 40109(a) and (c)–(h) of this title.

(2) Under guidelines prescribed under section 41737(a) of this title, the Secretary shall pay the rate of compensation for providing basic essential air service under this section and section 41734 of this title.

(d) COMPENSATION PAYMENTS.—The Secretary shall pay compensation under this section at times and in the way the Secretary decides is appropriate. The Secretary shall end payment of compensation to an air carrier for providing basic essential air service to an eligible place when the Secretary decides the compensation is no longer necessary to maintain basic essential air service to the place.

(e) REVIEW.—The Secretary shall review periodically the level of basic essential air service for each eligible place. Based on the review and consultations with an interested community and the appropriate State authority of the State in which the community is located, the Secretary may make appropriate adjustments in the level of service.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1145.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41733(a)	49 App.:1389(b)(1)(A) (less last sentence last 24 words), (C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(b)(1), (3), (4), (9); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1508, 1509, 1511.
41733(b)(1) ..	49 App.:1389(b)(1)(A) (last sentence last 24 words), (B).	
41733(b)(2) ..	49 App.:1389(b)(9).	
41733(c)	49 App.:1389(b)(3).	
41733(d)	49 App.:1389(b)(4).	
41733(e)	49 App.:1389(b)(1)(D).	

In subsection (a), the words ''the level of basic essential air service for that place shall be the level established by the Secretary of Transportation for that place'' are substituted for ''Such determination shall be made'' because the determinations for those places have been made. The words ''by not later than December 29, 1988'' are substituted for ''no later than the last day of the 1-year period beginning on December 30, 1987'' for clarity. The words ''and only after consideration of the views of any interested community and the State agency of the State in which such community is located'' and 49 App.:1389(b)(1)(C) are omitted as executed.

In subsections (b)(1) and (e), the words ''appropriate State authority'' are substituted for ''State agency'' for clarity and consistency with the source provisions restated in section 41734(a) of the revised title.

In section (b)(2), the words ''that appears to deprive'' are substituted for ''which reasonably appears to deprive'' to eliminate an unnecessary word.

In subsection (c)(1), before clause (A), the words ''an air carrier may apply to provide basic essential air service to the place for compensation'' are substituted for ''applications may be submitted by any air carrier that is willing to provide such service to such point for compensation'' for clarity and to eliminate unnecessary words.

REFERENCES IN TEXT

Section 419 of the Federal Aviation Act of 1958, referred to in subsec. (a), is section 419 of Pub. L. 85–726, which was classified to section 1389 of former Title 49, Transportation, and was repealed and reenacted as this subchapter by Pub. L. 103–272, §§1(e), 7(b), July 5, 1994, 108 Stat. 1143, 1379.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41110, 41732, 41734, 41735, 41736 of this title.

§ 41734. Ending, suspending, and reducing basic essential air service

(a) NOTICE REQUIRED.—An air carrier may end, suspend, or reduce air transportation to an eligible place below the level of basic essential air service established for that place under section 41733 of this title only after giving the Secretary of Transportation, the appropriate State authority, and the affected communities at least 90 days' notice before ending, suspending, or reducing that transportation.

(b) CONTINUATION OF SERVICE FOR 30 DAYS AFTER NOTICE PERIOD.—If at the end of the notice period under subsection (a) of this section the Secretary has not found another air carrier to provide basic essential air service to the eligible place, the Secretary shall require the carrier providing notice to continue to provide basic essential air service to the place for an additional 30-day period or until another carrier begins to provide basic essential air service to the place, whichever occurs first.

(c) CONTINUATION OF SERVICE FOR ADDITIONAL 30-DAY PERIODS.—If at the end of the 30-day period under subsection (b) of this section the Secretary decides another air carrier will not provide basic essential air service to the place on a continuing basis, the Secretary shall require the carrier providing service to continue to provide service for additional 30-day periods until another carrier begins providing service on a continuing basis. At the end of each 30-day period, the Secretary shall decide if another carrier will provide service on a continuing basis.

(d) CONTINUATION OF COMPENSATION AFTER NOTICE PERIOD.—If an air carrier receiving compensation under section 41733 of this title for providing basic essential air service to an eligible place is required to continue to provide service to the place under this section after the 90-day notice period under subsection (a) of this section, the Secretary shall continue to pay that compensation after the last day of that period. The Secretary shall pay the compensation until the Secretary finds another carrier to provide the service to the place or the 90th day after the end of that notice period, whichever is earlier. If, after the 90th day after the end of the 90-day notice period, the Secretary has not found another carrier to provide the service, the carrier required to continue to provide that service shall receive compensation sufficient—

(1) to pay for the fully allocated actual cost to the carrier of performing the basic essential air service that was being provided when the 90-day notice was given under subsection (a) of this section plus a reasonable return on in-

vestment that is at least 5 percent of operating costs; and

(2) to provide the carrier an additional return that recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that those lost profits increase as the period during which the carrier is required to provide the service continues.

(e) COMPENSATION TO AIR CARRIERS ORIGINALLY PROVIDING SERVICE WITHOUT COMPENSATION.—If the Secretary requires an air carrier providing basic essential air service to an eligible place without compensation under section 41733 of this title to continue providing that service after the 90-day notice period required by subsection (a) of this section, the Secretary shall provide the carrier with compensation after the end of the 90-day notice period that is sufficient—

(1) to pay for the fully allocated actual cost to the carrier of performing the basic essential air service that was being provided when the 90-day notice was given under subsection (a) of this section plus a reasonable return on investment that is at least 5 percent of operating costs; and

(2) to provide the carrier an additional return that recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that those lost profits increase as the period during which the carrier is required to provide the service continues.

(f) FINDING REPLACEMENT CARRIERS.—When the Secretary requires an air carrier to continue to provide basic essential air service to an eligible place, the Secretary shall continue to make every effort to find another carrier to provide at least that basic essential air service to the place on a continuing basis.

(g) TRANSFER OF AUTHORITY.—If an air carrier, providing basic essential air service under section 41733 of this title between an eligible place and an airport at which the Administrator of the Federal Aviation Administration limits the number of instrument flight rule takeoffs and landings of aircraft, provides notice under subsection (a) of this section of an intention to end, suspend, or reduce that service and another carrier is found to provide the service, the Secretary shall require the carrier providing notice to transfer any operational authority the carrier has to land or take off at that airport related to the service to the eligible place to the carrier that will provide the service, if—

(1) the carrier that will provide the service needs the authority; and

(2) the authority to be transferred is being used to provide air service to another eligible place.

(h) NONCONSIDERATION OF SLOT AVAILABILITY.—In determining what is basic essential air service and in selecting an air carrier to provide such service, the Secretary shall not consider as a factor whether slots at a high density airport are available for providing such service.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1146; Pub. L. 103–305, title II, § 206(c), Aug. 23, 1994, 108 Stat. 1587; Pub. L. 103–429, § 6(81), Oct. 31, 1994, 108 Stat. 4388.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41734(a)	49 App.:1389(b)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(b)(2), (5)–(8); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1509, 1510.
41734(b)	49 App.:1389(b)(5) (1st sentence).	
41734(c)	49 App.:1389(b)(5) (last sentence).	
41734(d)	49 App.:1389(b)(6)(A).	
41734(e)	49 App.:1389(b)(6)(B).	
41734(f)	49 App.:1389(b)(8).	
41734(g)	49 App.:1389(b)(7).	

In subsection (b), the words ''If at the end of the notice period under subsection (a) of this section'' are substituted for ''If an air carrier has provided notice to the Secretary under paragraph (2) of such air carrier's intention to suspend, terminate, or reduce service to any eligible point below the level of basic essential air service to such point, and if at the conclusion of the applicable period of notice'' for clarity and to eliminate unnecessary words.

In subsection (c), the words ''either with or without compensation'' are omitted as unnecessary. The words ''shall require the carrier providing service to continue to provide service for additional 30-day periods'' are substituted for ''shall extend such requirement for such additional 30-day periods . . . as may be necessary to continue basic essential air service to such eligible point'', and the words ''the Secretary shall decide if another carrier will provide service on a continuing basis'' are substituted for ''making the same determination'', for clarity.

In subsections (d)(1) and (e)(1), the word ''fair'' is omitted as being included in ''reasonable''.

In subsection (d), before clause (1), the words ''basic essential air service'' are substituted for ''air transportation'' and ''such transportation'' for consistency with the source provisions restated in this section. The words ''to continue to provide service to the place under this section after the 90-day notice period under subsection (a) of this section'' are substituted for ''to continue service to such point beyond the date on which such carrier would, but for paragraph (5), be able to suspend, terminate, or reduce such service below the level of basic essential air service to such point'' to eliminate unnecessary words.

In subsection (e), before clause (1), the words ''basic essential air service'' are substituted for ''air transportation'' for consistency with the source provisions restated in this section. The words ''after the end of the 90-day notice period that is'' are substituted for ''then'' for clarity.

In subsection (f), the words ''basic essential air service'' are substituted for ''air transportation which such air carrier has proposed to terminate, reduce, or suspend'' for consistency with the source provisions restated in this section.

In subsection (g)(2), the words ''the authority to be transferred is being used only to provide air service to the eligible place'' are substituted for ''unless . . . such authority is being used to provide air service with respect to more than 1 eligible point'' for clarity and because of the restatement.

AMENDMENTS

1994—Subsec. (g)(2). Pub. L. 103–429 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''the authority to be transferred is being used only to provide air service to the eligible place.''

Subsec. (h). Pub. L. 103–305 added subsec. (h).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

DEFINITIONS

For definitions of the terms ''slot'' and ''high density airport'' used in subsec. (h) of this section, see section 41714(h) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41110, 41714, 41732, 41733, 41735 of this title.

§ 41735. Enhanced essential air service

(a) PROPOSALS.—(1) A State or local government may submit a proposal to the Secretary of Transportation for enhanced essential air service to an eligible place for which basic essential air service is being provided under section 41733 of this title. The proposal shall—

(A) specify the level and type of enhanced essential air service the State or local government considers appropriate; and

(B) include an agreement related to compensation required for the proposed service.

(2) The agreement submitted under paragraph (1)(B) of this subsection shall provide that—

(A) the State or local government or a person pay 50 percent of the compensation required for the proposed service and the United States Government pay the remaining 50 percent; or

(B)(i) the Government pay 100 percent of the compensation; and

(ii) if the proposed service is not successful for at least a 2-year period under the criteria prescribed by the Secretary under paragraph (3) of this subsection, the eligible place is not eligible for air service or air transportation for which compensation is paid by the Secretary under this subchapter.

(3) The Secretary shall prescribe by regulation objective criteria for deciding whether enhanced essential air service to an eligible place under this section is successful in terms of—

(A) increasing passenger usage of the airport facilities at the place; and

(B) reducing the amount of compensation provided by the Secretary under this subchapter for that service.

(b) DECISIONS.—Not later than 90 days after receiving a proposal under subsection (a) of this section, the Secretary shall—

(1) approve the proposal if the Secretary decides the proposal is reasonable; or

(2) if the Secretary decides the proposal is not reasonable, disapprove the proposal and notify the State or local government of the disapproval and the reasons for the disapproval.

(c) COMPENSATION PAYMENTS.—(1) The Secretary shall pay compensation under this section when and in the way the Secretary decides is appropriate. Compensation for enhanced essential air service under this section may be paid only for the costs incurred in providing air service to an eligible place that are in addition to the costs incurred in providing basic essential air service to the place under section 41733 of this title. The Secretary shall continue to pay compensation under this section only as long as—

(A) the air carrier maintains the level of enhanced essential air service;

(B) the State or local government or person agreeing to pay compensation under this section continues to pay the compensation; and

(C) the Secretary decides the compensation is necessary to maintain the service to the place.

(2) The Secretary may require the State or local government or person agreeing to pay compensation under this section to make advance payments or provide other security to ensure that timely payments are made.

(d) REVIEW.—(1) The Secretary shall review periodically the enhanced essential air service provided to each eligible place under this section.

(2) For service for which the Government pays 50 percent of the compensation, based on the review and consultation with the affected community and the State or local government or person paying the remaining 50 percent of the compensation, the Secretary shall make appropriate adjustments in the type and level of service to the place.

(3) For service for which the Government pays 100 percent of the compensation, based on the review and consultation with the State or local government submitting the proposal, the Secretary shall decide whether the service has succeeded for at least a 2-year period under the criteria prescribed under subsection (a)(3) of this section. If unsuccessful, the place is not eligible for air service or air transportation for which compensation is paid by the Secretary under this subchapter.

(e) ENDING, SUSPENDING, AND REDUCING AIR TRANSPORTATION.—An air carrier may end, suspend, or reduce air transportation to an eligible place below the level of enhanced essential air service established for that place by the Secretary under this section only after giving the Secretary, the affected community, and the State or local government or person paying compensation for that service at least 30 days' notice before ending, suspending, or reducing the service. This subsection does not relieve the carrier of an obligation under section 41734 of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1148.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41735(a)	49 App.:1389(c)(1), (3)(C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(c); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1512.
41735(b)	49 App.:1389(c)(2).	
41735(c)	49 App.:1389(c)(5)–(7).	
41735(d)	49 App.:1389(c)(3)(A), (B).	
41735(e)	49 App.:1389(c)(4).	

In subsections (a)(2)(B)(ii) and (d)(3), the words ''air service or air transportation for which compensation is paid'' are substituted for ''air service for which compensation is payable'' for consistency with the source provisions restated in sections 41733 and 41736 of the revised title.

In subsection (a)(3), the word ''prescribe'' is substituted for ''establish'' for consistency in the revised title.

In subsection (b), before clause (1), the words ''issue a decision'' are omitted as unnecessary because of the restatement.

In subsection (c)(1)(B), the words ''State or local government or person agreeing to pay compensation under this section'' are substituted for ''government or person agreeing to pay any non-Federal share'' for clarity.

In subsection (c)(2), the words ''State or local government or person agreeing to pay compensation under this section'' are substituted for ''non-Federal payments for enhanced essential air service under this subsection'' for clarity.

In subsection (d)(2), the words ''For service for which the Government pays 50 percent of the compensation'' are substituted for ''If the enhanced essential air service approved under this subsection is to be at a 50 percent Federal share'' because of the restatement. The words ''the remaining 50 percent'' are substituted for ''the non-Federal'' for clarity and consistency in this section.

In subsection (d)(3), the words ''For service for which the Government pays 100 percent of the compensation'' are substituted for ''If the enhanced essential air service approved under this subsection is to be at a 100 percent Federal share'' because of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41110 of this title.

§ 41736. Air transportation to noneligible places

(a) PROPOSALS AND DECISIONS.—(1) A State or local government may propose to the Secretary of Transportation that the Secretary provide compensation to an air carrier to provide air transportation to a place that is not an eligible place under this subchapter. Not later than 90 days after receiving a proposal under this section, the Secretary shall—

(A) decide whether to designate the place as eligible to receive compensation under this section; and

(B)(i) approve the proposal if the State or local government or a person is willing and able to pay 50 percent of the compensation for providing the transportation, and notify the State or local government of the approval; or

(ii) disapprove the proposal if the Secretary decides the proposal is not reasonable under paragraph (2) of this subsection, and notify the State or local government of the disapproval and the reasons for the disapproval.

(2) In deciding whether a proposal is reasonable, the Secretary shall consider, among other factors—

(A) the traffic-generating potential of the place;

(B) the cost to the United States Government of providing the proposed transportation; and

(C) the distance of the place from the closest hub airport.

(b) APPROVAL FOR CERTAIN AIR TRANSPORTATION.—Notwithstanding subsection (a)(1)(B) of this section, the Secretary shall approve a proposal under this section to compensate an air carrier for providing air transportation to a place in the 48 contiguous States or the District of Columbia and designate the place as eligible for compensation under this section if—

(1) at any time before October 23, 1978, the place was served by a carrier holding a certificate under section 401 of the Federal Aviation Act of 1958;

(2) the place is more than 50 miles from the nearest small hub airport or an eligible place;

(3) the place is more than 150 miles from the nearest hub airport; and

(4) the State or local government submitting the proposal or a person is willing and able to pay 25 percent of the cost of providing the compensated transportation.

(c) LEVEL OF AIR TRANSPORTATION.—(1) If the Secretary designates a place under subsection (a)(1) of this section as eligible for compensation under this section, the Secretary shall decide, not later than 6 months after the date of the designation, on the level of air transportation to be provided under this section. Before making a decision, the Secretary shall consider the views of any interested community, the appropriate State authority of the State in which the place is located, and the State or local government or person agreeing to pay compensation for the transportation under subsection (b)(4) of this section.

(2) After making the decision under paragraph (1) of this subsection, the Secretary shall provide notice that any air carrier that is willing to provide the level of air transportation established under paragraph (1) for a place may submit an application to provide the transportation. In selecting an applicant, the Secretary shall consider, among other factors—

(A) the factors listed in section 41733(c)(1) of this title; and

(B) the views of the State or local government or person agreeing to pay compensation for the transportation.

(d) COMPENSATION PAYMENTS.—(1) The Secretary shall pay compensation under this section when and in the way the Secretary decides is appropriate. The Secretary shall continue to pay compensation under this section only as long as—

(A) the air carrier maintains the level of air transportation established by the Secretary under subsection (c)(1) of this section;

(B) the State or local government or person agreeing to pay compensation for transportation under this section continues to pay that compensation; and

(C) the Secretary decides the compensation is necessary to maintain the transportation to the place.

(2) The Secretary may require the State or local government or person agreeing to pay compensation under this section to make advance payments or provide other security to ensure that timely payments are made.

(e) REVIEW.—The Secretary shall review periodically the level of air transportation provided under this section. Based on the review and consultation with any interested community, the appropriate State authority of the State in

which the community is located, and the State or local government or person paying compensation under this section, the Secretary may make appropriate adjustments in the level of transportation.

(f) WITHDRAWAL OF ELIGIBILITY DESIGNATIONS.—After providing notice and an opportunity for interested persons to comment, the Secretary may withdraw the designation of a place under subsection (a)(1) of this section as eligible to receive compensation under this section if the place has received air transportation under this section for at least 2 years and the Secretary decides the withdrawal would be in the public interest. The Secretary by regulation shall prescribe standards for deciding whether the withdrawal of a designation under this subsection is in the public interest. The standards shall include the factors listed in subsection (a)(2) of this section.

(g) ENDING, SUSPENDING, AND REDUCING AIR TRANSPORTATION.—An air carrier providing air transportation for compensation under this section may end, suspend, or reduce that transportation below the level of transportation established by the Secretary under this section only after giving the Secretary, the affected community, and the State or local government or person paying compensation under this section at least 30 days' notice before ending, suspending, or reducing the transportation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1149.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41736(a)	49 App.:1389(d)(1), (2)(A), (C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(d); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1513.
41736(b)	49 App.:1389(d)(2)(B).	
41736(c)(1) ..	49 App.:1389(d)(3)(A).	
41736(c)(2) ..	49 App.:1389(d)(4).	
41736(d)	49 App.:1389(d)(5), (7), (8).	
41736(e)	49 App.:1389(d)(3)(B).	
41736(f)	49 App.:1389(d)(2)(D).	
41736(g)	49 App.:1389(d)(6).	

In subsection (a)(1), before clause (A), the words ''that the Secretary provide compensation to an air carrier to provide air transportation'' are substituted for ''for compensated air transportation in accordance with this subsection'' for clarity. In clause (B)(i), the word ''transportation'' is substituted for ''proposed compensated air transportation'' to eliminate unnecessary words.

In subsections (c)–(g), the word ''transportation'' is substituted for ''service'' for consistency with the source provisions restated in subsections (a) and (b) of this section.

In subsections (c)(1) and (e), the words ''appropriate State authority'' are substituted for ''State agency'' for clarity and consistency with the source provisions restated in section 41734(a) of the revised title.

In subsection (d), the text of 49 App.:1389(d)(5) is omitted as unnecessary because of the restatement.

In subsection (f), the word ''prescribe'' is substituted for ''establish'' for consistency in the revised title and with other titles of the United States Code.

REFERENCES IN TEXT

Section 401 of the Federal Aviation Act of 1958, referred to in subsec. (b)(1), is section 401 of Pub. L. 85–726, which was classified to section 1371 of former Title 49, Transportation, and was repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For disposition of section 1371 of former Title 49, see Table at the beginning of Title 49.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41110, 41738 of this title.

§ 41737. Compensation guidelines, limitations, and claims

(a) COMPENSATION GUIDELINES.—(1) The Secretary of Transportation shall prescribe guidelines governing the rate of compensation payable under this subchapter. The guidelines shall be used to determine the reasonable amount of compensation required to ensure the continuation of air service or air transportation under this subchapter. The guidelines shall—

(A) provide for a reduction in compensation when an air carrier does not provide service or transportation agreed to be provided;

(B) consider amounts needed by an air carrier to promote public use of the service or transportation for which compensation is being paid; and

(C) include expense elements based on representative costs of air carriers providing scheduled air transportation of passengers, property, and mail on aircraft of the type the Secretary decides is appropriate for providing the service or transportation for which compensation is being provided.

(2) Promotional amounts described in paragraph (1)(B) of this subsection shall be a special, segregated element of the compensation provided to a carrier under this subchapter.

(b) REQUIRED FINDING.—The Secretary may pay compensation to an air carrier for providing air service or air transportation under this subchapter only if the Secretary finds the carrier is able to provide the service or transportation in a reliable way.

(c) CLAIMS.—Not later than 15 days after receiving a written claim from an air carrier for compensation under this subchapter, the Secretary shall—

(1) pay or deny the United States Government's share of a claim; and

(2) if denying the claim, notify the carrier of the denial and the reasons for the denial.

(d) AUTHORITY TO MAKE AGREEMENTS AND INCUR OBLIGATIONS.—(1) The Secretary may make agreements and incur obligations from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to pay compensation under this subchapter. An agreement by the Secretary under this subsection is a contractual obligation of the Government to pay the Government's share of the compensation.

(2) Not more than $38,600,000 is available to the Secretary out of the Fund for each of the fiscal years ending September 30, 1993–1998, to incur obligations under this section. Amounts made

available under this section remain available until expended.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1151.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41737(a)	49 App.:1389(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(e)(2)–(g); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1515.
41737(b)	49 App.:1389(e)(2).	
41737(c)	49 App.:1389(g).	
41737(d)	49 App.:1389(*l*).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(*l*); added Nov. 5, 1990, Pub. L. 101–508, §9113(b)(1), 104 Stat. 1388–363.

In subsection (a)(1), before clause (A), the word ''prescribe'' is substituted for ''establish'' to eliminate an executed word. The words ''air service or air transportation under this subchapter'' are substituted for ''air service under this section'' for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title. In clause (C), the words ''the service or transportation for which compensation is being provided'' are substituted for ''such service'' for clarity.

In subsection (a)(2), the words ''compensation provided to a carrier under this subchapter'' are substituted for ''required compensation'' for clarity.

In subsection (b), the words ''air service or air transportation'' are substituted for ''air service'' for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title.

In subsection (d)(2), the reference to fiscal year 1992 is omitted as obsolete.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41110, 41733 of this title.

§ 41738. Fitness of air carriers

Notwithstanding section 40109(a) and (c)–(h) of this title, an air carrier may provide air service to an eligible place or air transportation to a place designated under section 41736 of this title only when the Secretary of Transportation decides that—

(1) the carrier is fit, willing, and able to perform the service or transportation; and

(2) aircraft used to provide the service or transportation, and operations related to the service or transportation, conform to the safety standards prescribed by the Administrator of the Federal Aviation Administration.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41738	49 App.:1389(e)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(e)(1); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1515.

In this section, before clause (1), the words ''air transportation to a place'' are substituted for ''service to a point'' for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title. In clauses (1) and (2), the words ''service or transportation'' are substituted for ''such service'' for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41110 of this title.

§ 41739. Air carrier obligations

If at least 2 air carriers make an agreement to operate under or use a single carrier designator code to provide air transportation, the carrier whose code is being used shares responsibility with the other carriers for the quality of transportation provided the public under the code by the other carriers.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41739	49 App.:1389(i).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(i); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.

The words ''quality of transportation'' are substituted for ''quality of service'' for clarity and consistency in this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41110 of this title.

§ 41740. Joint proposals

The Secretary of Transportation shall encourage the submission of joint proposals by 2 or more air carriers for providing air service or air transportation under this subchapter through arrangements that maximize the service or transportation to and from major destinations beyond the hub.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41740	49 App.:1389(j).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(j); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.

The words ''air service or air transportation'' are substituted for ''air service'', and the words ''the service or transportation'' are substituted for ''service'', for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41110 of this title.

§ 41741. Insurance

The Secretary of Transportation may pay an air carrier compensation under this subchapter only when the carrier files with the Secretary an insurance policy or self-insurance plan approved by the Secretary. The policy or plan must be sufficient to pay for bodily injury to, or death of, an individual, or for loss of or damage to property of others, resulting from the operation of aircraft, but not more than the amount of the policy or plan limits.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41741	49 App.:1389(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(h); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.

The words ''The Secretary of Transportation may pay . . . only when'' are substituted for ''An air carrier shall not receive . . . unless'' for clarity. The words ''approved by the Secretary'' are substituted for ''complies with regulations or orders issued by the Secretary governing the filing and approval'' to eliminate unnecessary words. The words ''The policy or plan must be sufficient to pay . . . but not more than the amount of the policy or plan limits'' are substituted for ''in the amount prescribed by the Secretary which are conditioned to pay, within the amount of such insurance, amounts'' because of the restatement. The words ''for which such air carrier may become liable'' are omitted as unnecessary. The word ''individual'' is substituted for ''person'' because it is more precise. The word ''operation'' is substituted for ''operation or maintenance'' because it is inclusive.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41110 of this title.

§ 41742. Essential air service authorization

(a) IN GENERAL.—Out of the amounts received by the Federal Aviation Administration credited to the account established under section 45303 of this title or otherwise provided to the Administration, the sum of $50,000,000 is authorized and shall be made available immediately for obligation and expenditure to carry out the essential air service program under this subchapter for each fiscal year.

(b) FUNDING FOR SMALL COMMUNITY AIR SERVICE.—Notwithstanding any other provision of law, moneys credited to the account established under section 45303(a) of this title, including the funds derived from fees imposed under the authority contained in section 45301(a) of this title, shall be used to carry out the essential air service program under this subchapter. Notwithstanding section 47114(g)[1] of this title, any amounts from those fees that are not obligated or expended at the end of the fiscal year for the purpose of funding the essential air service program under this subchapter shall be made available to the Administration for use in improving rural air safety under subchapter I of chapter 471 of this title and shall be used exclusively for projects at rural airports under this subchapter.

(c) SPECIAL RULE FOR FISCAL YEAR 1997.—Notwithstanding subsections (a) and (b), in fiscal year 1997, amounts in excess of $75,000,000 that are collected in fees pursuant to section 45301(a)(1) of this title shall be available for the essential air service program under this subchapter, in addition to amounts specifically provided for in appropriations Acts.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1152; Pub. L. 104–264, title II, § 278(c), Oct. 9, 1996, 110 Stat. 3249.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41742	49 App.:1389(m).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(m); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1517; Nov. 5, 1990, Pub. L. 101–508, § 9113(b)(1), 104 Stat. 1388–363.

REFERENCES IN TEXT

Section 47114 of this title, referred to in subsec. (b), does not contain a subsec. (g).

AMENDMENTS

1996—Pub. L. 104–264 amended section generally, substituting provisions relating to essential air service authorization for provisions stating that this subchapter was not effective after Sept. 30, 1998.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–264 effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as a note under section 106 of this title.

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

FINDINGS

Section 278(b) of Pub. L. 104–264 provided that: ''Congress finds that—

''(1) air service in rural areas is essential to a national and international transportation network;

''(2) the rural air service infrastructure supports the safe operation of all air travel;

''(3) rural air service creates economic benefits for all air carriers by making the national aviation system available to passengers from rural areas;

''(4) rural air service has suffered since deregulation;

''(5) the essential air service program under the Department of Transportation—

''(A) provides essential airline access to rural and isolated rural communities throughout the Nation;

''(B) is necessary for the economic growth and development of rural communities;

''(C) is a critical component of the national and international transportation system of the United States; and

[1] See References in Text note below.

''(D) has endured serious funding cuts in recent years; and

''(6) a reliable source of funding must be established to maintain air service in rural areas and the essential air service program.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41110 of this title.

CHAPTER 419—TRANSPORTATION OF MAIL

Sec.
41901. General authority.
41902. Schedules for certain transportation of mail.
41903. Duty to provide certain transportation of mail.
41904. Noncitizens transporting mail to or in foreign countries.
41905. Regulating air carrier transportation of foreign mail.
41906. Emergency mail transportation.
41907. Prices for foreign transportation of mail.
41908. Prices for transporting mail of foreign countries.
41909. Duty to oppose unreasonable prices under the Universal Postal Union Convention.
41910. Weighing mail.
41911. Evidence of providing mail service.
41912. Effect on foreign postal arrangements.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 40109, 41110, 46301 of this title.

§ 41901. General authority

(a) TITLE 39.—The United States Postal Service may provide for the transportation of mail by aircraft in interstate air transportation under section 5402(d) and (f) of title 39.

(b) AUTHORITY TO PRESCRIBE PRICES.—Except as provided in section 5402 of title 39, on the initiative of the Secretary of Transportation or on petition by the Postal Service or an air carrier, the Secretary shall prescribe and publish—

(1) after notice and an opportunity for a hearing on the record, reasonable prices to be paid by the Postal Service for the transportation of mail by aircraft in foreign air transportation or between places in Alaska, the facilities used in and useful for the transportation of mail, and the services related to the transportation of mail for each carrier holding a certificate that authorizes that transportation;

(2) the methods used, whether by aircraft-mile, pound-mile, weight, space, or a combination of those or other methods, to determine the prices for each air carrier or class of air carriers; and

(3) the effective date of the prices.

(c) OTHER TRANSPORTATION.—In prescribing prices under subsection (b) of this section, the Secretary may include transportation other than by aircraft that is incidental to transportation of mail by aircraft or necessary because of emergency conditions related to aircraft operations.

(d) AUTHORITY TO PRESCRIBE DIFFERENT PRICES.—Considering conditions peculiar to transportation by aircraft and to particular air carriers or classes of air carriers, the Secretary may prescribe different prices under this section for different air carriers or classes of air carriers and for different classes of service. In prescribing a price for a carrier under this section, the Secretary shall consider, among other factors, the following:

(1) the condition that the carrier may hold and operate under a certificate authorizing the transportation of mail only by providing necessary and adequate facilities and service for the transportation of mail.

(2) standards related to the character and quality of service to be provided that are prescribed by or under law.

(e) STATEMENTS ON PRICES.—A petition for prescribing a reasonable price under this section must include a statement of the price the petitioner believes is reasonable.

(f) STATEMENTS ON REQUIRED SERVICES.—The Postal Service shall introduce as part of the record in every proceeding under this section a comprehensive statement of the services to be required of the air carrier and other information the Postal Service has that the Secretary considers material to the proceeding.

(Pub. L. 103–272, §§ 1(e), 4(k)(1), (2), July 5, 1994, 108 Stat. 1153, 1370; Pub. L. 104–52, title VI, § 631(c), Nov. 19, 1995, 109 Stat. 505.)

AMENDMENT OF SUBSECTION (b)(1)

Pub. L. 103–272, § 4(k)(1), July 5, 1994, 108 Stat. 1370, provided that, effective Jan. 1, 1999, this section is amended by substituting ''transportation'' for ''transportation or between places in Alaska'' in subsection (b)(1).

HISTORICAL AND REVISION NOTES
PUB. L. 103–272, § 1(e)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41901(a)	49 App.:1376(a) (1st sentence related to non-Alaska interstate and overseas air transportation less words between parentheses).	Aug. 23, 1958, Pub. L. 85–726, § 406(a), 72 Stat. 763; Nov. 9, 1977, Pub. L. 95–163, § 13, 91 Stat. 1282.
	49 App.:1551(b)(1)(D).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(D); added Oct. 4, 1984, Pub. L. 95–504, § 40(a), 92 Stat. 1745; Oct. 4, 1984, Pub. L. 98–443, § 3(d), 98 Stat. 1704.
41901(b)	49 App.:1376(a) (1st sentence related to foreign and Alaska air transportation less words between parentheses, 2d, last sentences).	
	49 App.:1376(c).	Aug. 23, 1958, Pub. L. 85–726, § 406(c), 72 Stat. 764; Oct. 24, 1978, Pub. L. 95–504, § 24(b), 92 Stat. 1725.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41901(c)	49 App.:1376(a) (1st sentence words between parentheses).	
41901(d)	49 App.:1376(b).	Aug. 23, 1958, Pub. L. 85–726, § 406(b), 72 Stat. 763; July 10, 1962, Pub. L. 87–528, § 5, 76 Stat. 145; Oct. 15, 1966, Pub. L. 89–670, § 8(a), 80 Stat. 942; Nov. 9, 1977, Pub. L. 95–163, § 12(a), 91 Stat. 1282; Oct. 24, 1978, Pub. L. 95–504, §§ 24(a), 25(a), 92 Stat. 1725.
	49 App.:1376(d).	Aug. 23, 1958, Pub. L. 85–726, § 406(d), (e), 72 Stat. 764.
	49 App.:1551(b)(1)(D), (E).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272, § 1(e)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41901(e)	49 App.:1376(e) (1st sentence).	
41901(f)	49 App.:1376(e) (last sentence). 49 App.:1551(b)(1)(D), (E).	
41901(g)	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, 1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, 3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1553(c).	Oct. 4, 1984, Pub. L. 98–443, §4(c), 98 Stat. 1705; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §4(c) of Civil Aeronautics Board Sunset Act of 1984), 102 Stat. 2155.

In this section, the word ''prescribe'' is substituted for ''fix and determine'' and ''fixing and determining'' for consistency in the revised title and with other titles of the United States Code. The word ''reasonable'' is substituted for ''fair and reasonable'' for consistency in the revised title and to eliminate an unnecessary word. See the revision notes following 49:10101.

Subsection (a) is substituted for 49 App.:1551(b)(1)(D) to make clear that the United States Postal Service derives its authority to provide for the transportation of mail by aircraft in interstate transportation from 39:5402(d) and (f). The text of 49 App.:1376(a) (1st sentence related to non-Alaska interstate and overseas air transportation less words between parentheses) is omitted as superseded by 39:5402(d).

In subsection (b), before clause (1), the words ''Except as provided in section 5402 of title 39'' are added for clarity. The words ''from time to time'' in 49 App.:1376(a) are omitted as surplus. The text of 49 App.:1376(a) (2d, last sentences) is omitted as executed. In clauses (1) and (2), the word ''prices'' is substituted for ''rates of compensation'' for consistency in this part. In clause (1), the words ''an opportunity for a hearing on the record'' are substituted for ''hearing'' for clarity and consistency with subsection (f) of this section. The words ''to be paid by the Postal Service'' are substituted for ''The United States Postal Service shall make payments . . . of so much of the total compensation as is fixed and determined by the Board under this section without regard to clause (3) of subsection (b) of this section'' in 49 App.:1376(c) to eliminate unnecessary words because the text of 49 App.:1376(b) (2d sentence words after 2d semicolon) is being omitted. See the revision notes for subsection (d) of this section. The words ''out of appropriations for the transportation of mail by aircraft'' are omitted as being superseded by chapters 20 and 24 of title 39, United States Code. The text of 49 App.:1376(c) (2d sentence) is omitted as expired because of 49 App.:1376(c) (last sentence). The text of 49 App.:1376(c) (last sentence) is omitted as executed. The words ''and to make such rates effective from such date as it shall determine to be proper'' in 49 App.:1376(a) are omitted because the power to determine when rates go into effect is included in the power to prescribe rates. The words ''transportation of mail by aircraft in foreign air transportation or between places in Alaska'' are substituted for ''transportation of mail by aircraft'' because 49 App.:1551(b)(1)(D) and (E) provides that transportation of mail in interstate or overseas air transportation (except transportation of mail between 2 places in Alaska) is transferred to the jurisdiction of the United States Postal Service leaving the balance of authority under 49 App.:1376(a) with the Secretary of Transportation.

In subsections (c), (d), and (f), reference to service provided by the Postal Service is omitted as obsolete because of 39:5402(d).

In subsection (c), the words ''In prescribing prices under subsection (b) of this section, the Secretary'' are added for clarity.

In subsection (d), the text of 49 App.:1376(b) (2d sentence words after 2d semicolon, 5th–7th sentences) and (d) is omitted as obsolete because under 49 App.:1376(c) and 1376a, payments by the Board under 49 App.:1376 were terminated. The text of 49 App.:1376(b) (3d, 4th sentences) is omitted as obsolete because it applies only to rates paid for service performed between October 24, 1978, and January 1, 1983. The text of 49 App.:1376(b) (last sentence) is omitted as executed.

Subsection (g) is substituted for 49 App.:1551(b)(3) and 1553(c) because the date on which the authority of the Secretary of Transportation to provide for the transportation of mail by aircraft expires is set out in 39:5402(f). The source provisions of 49 App.:1551(b)(3) providing for the transfer of that authority from the Secretary to the Postal Service are restated in section 5(k) of this bill.

PUB. L. 103–272, § 4(k)(1), (2)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41901(b)(1), (g).	49 App.:1551(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(8); added Oct. 4, 1984, Pub. L. 98–443, §3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, §3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, §346 (related to §1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(f) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(*l*) and (m) and 1375(b)–(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901–41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

AMENDMENTS

1995—Subsec. (g). Pub. L. 104–52 struck out subsec. (g) which read as follows: ''EXPIRATION DATE.—The authority of the Secretary under this part and section 5402 of title 39 providing for the transportation of mail by aircraft between places in Alaska expires on the date specified in section 5402(f) of title 39.''

EFFECTIVE DATE OF 1994 AMENDMENT

Section 4(k) of Pub. L. 103–272 provided that the amendment made by that section is effective Jan. 1, 1999.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 3401.

§ 41902. Schedules for certain transportation of mail

(a) REQUIREMENT.—Except as provided in section 41906 of this title and section 5402 of title 39, an air carrier may transport mail by aircraft in

foreign air transportation or between places in Alaska only under a schedule designated or required to be established under subsection (c) of this section for the transportation of mail.

(b) STATEMENTS ON PLACES AND SCHEDULES.—Every air carrier shall file with the Secretary of Transportation and the United States Postal Service a statement showing—

(1) the places between which the carrier is authorized to provide foreign air transportation;

(2) the places between which the carrier is authorized to transport mail in Alaska;

(3) every schedule of aircraft regularly operated by the carrier between places described in clauses (1) and (2) of this subsection and every change in each schedule; and

(4) for each schedule, the places served by the carrier and the time of arrival at, and departure from, each place.

(c) DESIGNATING AND ADDITIONAL SCHEDULES.—The Postal Service may—

(1) designate any schedule of an air carrier filed under subsection (b)(3) of this section for the transportation of mail between the places between which the carrier is authorized by its certificate to transport mail; and

(2) require the carrier to establish additional schedules for the transportation of mail between those places.

(d) CHANGING SCHEDULES.—A schedule designated or required to be established for the transportation of mail under subsection (c) of this section may be changed only after 10 days' notice of the change is filed as provided in subsection (b)(3) of this section. The Postal Service may disapprove a proposed change in a schedule or amend or modify the schedule or proposed change.

(e) ORDERS.—An order of the Postal Service under this section may become effective only after 10 days after the order is issued. A person adversely affected by the order may appeal the order to the Secretary before the end of the 10-day period under regulations the Secretary prescribes. If the public convenience and necessity require, the Secretary may amend, modify, suspend, or cancel the order. Pending a decision about the order, the Secretary may postpone the effective date of the order.

(f) PROCEEDINGS PREFERENCES.—The Secretary shall give preference to a proceeding under this section over all other proceedings before the Secretary under this subpart.

(Pub. L. 103–272, §§1(e), 4(k)(1), (3), July 5, 1994, 108 Stat. 1153, 1370; Pub. L. 103–429, §7(a)(3)(D), Oct. 31, 1994, 108 Stat. 4389.)

AMENDMENT OF SUBSECTIONS (a) AND (b)

Pub. L. 103–272, §4(k)(1), July 5, 1994, 108 Stat. 1370, provided that, effective Jan. 1, 1999, subsection (a) of this section is amended by substituting ''transportation'' for ''transportation or between places in Alaska''.

Pub. L. 103–272, §4(k)(3), July 5, 1994, 108 Stat. 1370, as amended by Pub. L. 103–429, §7(a)(3)(D), Oct. 31, 1994, 108 Stat. 4389, provided that, effective Jan. 1, 1999, subsection (b) of this section is amended by striking par. (2), redesignating pars. (3) and (4) as (2) and (3), respectively, and in par. (2), as redesignated, substituting ''clause (1)'' for ''clauses (1) and (2)''.

HISTORICAL AND REVISION NOTES
PUB. L. 103–272, §1(e)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41902(a)	49 App.:1375(b) (last sentence). 49 App.:1551(a)(4)(A) (related to 49 App.:1375(b)).	Aug. 23, 1958, Pub. L. 85–726, §405(b), 72 Stat. 760. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(A) (related to §405(b)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(c), (e), 98 Stat. 1703, 1704.
41902(b)	49 App.:1375(b) (1st sentence). 49 App.:1551(a)(4)(A) (related to 49 App.:1375(b)), (b)(1)(E).	
41902(c)	49 App.:1375(b) (2d sentence).	
41902(d)	49 App.:1375(b) (3d, 4th sentences).	
41902(e)	49 App.:1375(b) (5th–7th sentences). 49 App.:1551(a)(4)(A) (related to 49 App.:1375(b)), (b)(1)(E).	
41902(f)	49 App.:1375(b) (8th sentence). 49 App.:1551(a)(4)(A) (related to 49 App.:1375(b)), (b)(1)(E).	

In this chapter, the word ''places'' is substituted for ''points'' for consistency in the revised title. The words ''United States Postal Service'' and ''Postal Service'' are substituted for ''Postmaster General'' in sections 401, 405, and 406 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 754, 760) because of sections 4(a) and 6(o) of the Postal Reorganization Act (Public Law 91–375, 84 Stat. 773, 783).

In subsection (a), the words ''Except as provided in section 41906 of this title and section 5402 of title 39'' are added because section 41906 of the revised title and 39:5402 contain exceptions to the provisions restated in this subsection. The words ''transport mail by aircraft in foreign air transportation or between places in Alaska'' are substituted for ''transport mail'' because 49 App.:1551(a)(4)(A) provides that 49 App.:1375(b) no longer applies to interstate or overseas air transportation (except transportation of mail between 2 places in Alaska).

In subsection (b), before clause (1), the words ''from time to time'' are omitted as surplus. Clauses (1) and (2) are substituted for ''to engage in air transportation'' because 49 App.:1551(a)(4)(A) provides that 49 App.:1375(b) no longer applies to interstate or overseas air transportation (except transportation of mail between 2 places in Alaska). In clause (4), the words ''between places described in clauses (1) and (2) of this subsection and every change in each schedule'' are substituted for ''between such points'' for clarity.

In subsection (c)(1), the words ''any schedule of an air carrier filed under subsection (b)(3) of this section'' are substituted for ''any such schedule'' for clarity.

In subsection (c)(2), the words ''by order'' are omitted as surplus.

In subsection (d), the word ''alter'' is omitted as being included in ''amend, or modify''.

In subsection (e), the words ''adversely affected'' are substituted for ''aggrieved'' for consistency in the revised title. The words ''appeal the order'' are substituted for ''apply . . . for a review of such order'' for consistency in the revised title and with other titles of the United States Code. The words ''The Board may review, and'' are omitted as surplus. The words ''amend, modify'' are substituted for ''amend, revise'' for consistency in the revised title.

Subsection (f) is substituted for 49 App.:1375(b) (8th sentence) to reflect the transfer of functions of the

Civil Aeronautics Board to the Secretary of Transportation.

PUB. L. 103–272, § 4(k)(1), (3)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41902(a), (b)	49 App.:1551(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(8); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, § 346 (related to § 1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, § 3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, § 346 (related to § 1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(f) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(*l*) and (m) and 1375(b)–(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901–41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

EFFECTIVE DATE OF 1994 AMENDMENTS

Section 7(a) of Pub. L. 103–429 provided in part that the amendment made by that section is effective July 5, 1994.

Section 4(k) of Pub. L. 103–272 provided that the amendments made by that section are effective Jan. 1, 1999.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41903 of this title.

§ 41903. Duty to provide certain transportation of mail

(a) AIR CARRIERS.—Subject to subsection (b) of this section, an air carrier authorized by its certificate to transport mail by aircraft in foreign air transportation or between places in Alaska shall—

(1) provide facilities and services necessary and adequate to provide that transportation; and

(2) transport mail between the places authorized in the certificate for transportation of mail when required, and under regulations prescribed, by the United States Postal Service.

(b) MAXIMUM MAIL LOAD.—The Secretary of Transportation may prescribe the maximum mail load for a schedule or for an aircraft or type of aircraft for the transportation of mail by aircraft in foreign air transportation or between places in Alaska. If the Postal Service tenders to an air carrier mail exceeding the maximum load for transportation by the carrier under a schedule designated or required to be established for the transportation of mail under section 41902(c) of this title, the carrier, as nearly in accordance with the schedule as the Secretary decides is possible, shall—

(1) provide facilities sufficient to transport the mail to the extent the Secretary decides the carrier reasonably is able to do so; and

(2) transport that mail.

(Pub. L. 103–272, §§ 1(e), 4(k)(1), July 5, 1994, 108 Stat. 1154, 1370.)

AMENDMENT OF SECTION

Pub. L. 103–272, § 4(k)(1), July 5, 1994, 108 Stat. 1370, provided that, effective Jan. 1, 1999, this section is amended by substituting ''transportation'' for ''transportation or between places in Alaska'' wherever appearing.

HISTORICAL AND REVISION NOTES
PUB. L. 103–272, § 1(e)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41903(a)	49 App.:1371(*l*).	Aug. 23, 1958, Pub. L. 85–726, §§ 401(*l*), 405(c), (d), 72 Stat. 757, 761.
	49 App.:1375(d).	
	49 App.:1551(a)(4)(A) (related to 49 App.:1371(*l*), 1375(d)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(4)(A) (related to §§ 401(*l*), 405(c), (d)); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), 98 Stat. 1703.
41903(b)	49 App.:1375(c).	
	49 App.:1551(a)(4)(A) (related to 49 App.:1375(c)).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In subsection (a), before clause (1), the words ''Subject to subsection (b) of this section'' are added for clarity because subsection (b) limits the effect of this section. The words ''transport mail by aircraft in foreign air transportation or between places in Alaska'' are substituted for ''the transportation of mail'' in 49 App.:1371(*l*) and ''the transportation of mail by aircraft'' in 49 App.:1375(d) because 49 App.:1551(a)(4)(A) provides that 49 App.:1371(*l*) and 1375(d) no longer apply to interstate or overseas air transportation (except transportation of mail between 2 places in Alaska). Clause (2) is substituted for ''shall transport mail whenever required by the United States Postal Service'' in 49 App.:1371(*l*) and the text of 49 App.:1375(d) for clarity and to eliminate unnecessary words. The text of 49 App.:1371(*l*) (last sentence) is omitted as surplus because section 41901 of the revised title specifies how the rates of compensation are determined.

In subsection (b), before clause (1), the words ''transportation of mail by aircraft in foreign air transportation or between places in Alaska'' are added because 49 App.:1551(a)(4)(A) provides that 49 App.:1375(c) no longer applies to interstate or overseas air transportation of mail (except transportation of mail between 2 places in Alaska).

PUB. L. 103–272, § 4(k)(1)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41903	49 App.:1551(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(8); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, § 346 (related to § 1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155.

PUB. L. 103–272, § 4(k)(1)—Continued

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, § 3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, § 346 (related to § 1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(f) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(*l*) and (m) and 1375(b)–(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901–41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 4(k) of Pub. L. 103–272 provided that the amendment made by that section is effective Jan. 1, 1999.

§ 41904. Noncitizens transporting mail to or in foreign countries

When the United States Postal Service decides that it may be necessary to have a person not a citizen of the United States transport mail by aircraft to or in a foreign country, the Postal Service may make an arrangement with the person, without advertising, to provide the transportation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1155.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41904	49 App.:1375(e)(2).	Aug. 23, 1958, Pub. L. 85–726, § 405(e)(2), 72 Stat. 761.

The words ''who may not be obligated to transport the mail for a foreign country'' are omitted for simplicity and clarity because the omitted words impose no requirement or qualification that is meaningful.

§ 41905. Regulating air carrier transportation of foreign mail

An air carrier holding a certificate that authorizes foreign air transportation and transporting mail of a foreign country shall transport that mail under the control of, and subject to regulation by, the United States Government.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1155.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41905	49 App.:1375(f)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 405(f)(1) (1st sentence), 72 Stat. 761.

§ 41906. Emergency mail transportation

(a) CONTRACT AUTHORITY.—In an emergency caused by a flood, fire, or other disaster, the United States Postal Service may make a contract without advertising to transport mail by aircraft to or from a locality affected by the emergency when the available facilities of persons authorized to transport mail to or from the locality are inadequate to meet the requirements of the Postal Service during the emergency. The contract may be only for periods necessary to maintain mail service because of the inadequacy of the facilities. Payment for transportation provided under the contract shall be made at prices provided in the contract.

(b) TRANSPORTATION NOT AIR TRANSPORTATION.—Transportation provided under a contract made under subsection (a) of this section is not air transportation within the meaning of this part.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1155.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41906(a)	49 App.:1375(h) (1st, 2d, last sentences).	Aug. 23, 1958, Pub. L. 85–726, § 405(h), 72 Stat. 762.
41906(b)	49 App.:1375(h) (3d sentence).	

In subsection (a), the word ''disaster'' is substituted for ''calamitous visitation'' for consistency in the revised title and with other titles of the United States Code. The words ''any or all classes of'' and ''of compensation'' are omitted as surplus. The words ''from appropriations for the transportation of mail by the means normally used for transporting the mail transported under such contracts'' are omitted as superseded by 39:chs. 20 and 24. The authority of the Postal Service under this section is in addition to the authority of the Postal Service under 39:5001.

In subsection (b), the words ''Transportation provided'' are substituted for ''operation'' for consistency in this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41902 of this title.

§ 41907. Prices for foreign transportation of mail

(a) LIMITATIONS.—When air transportation is provided between the United States and a foreign country both by aircraft owned or operated by an air carrier holding a certificate under chapter 411 of this title and by aircraft owned or operated by a foreign air carrier, the United States Postal Service may not pay to or for the account of the foreign air carrier a price for transporting mail by aircraft between the United States and the foreign country that the Postal Service believes will result (over a reasonable period determined by the Postal Service considering exchange fluctuations and other factors) in the foreign air carrier receiving a price for transporting the mail that is higher than the price—

(1) the government of a foreign country or foreign postal administration pays to air carriers for transporting mail of the foreign country by aircraft between the foreign country and the United States; or

(2) determined by the Postal Service to be comparable to the price the government of a foreign country or foreign postal administration pays to air carriers for transporting mail of the foreign country by aircraft between the foreign country and an intermediate country on the route of the air carrier between the foreign country and the United States.

(b) CHANGES.—The Secretary of Transportation shall act expeditiously on proposed changes in prices for transporting mail by aircraft in foreign air transportation. When prescribing those prices, the Secretary shall consider—

(1) the prices paid for transportation of mail under the Universal Postal Union Convention as ratified by the United States Government;

(2) the price-making elements used by the Universal Postal Union in prescribing its airmail prices; and

(3) the competitive disadvantage to United States flag air carriers resulting from foreign air carriers receiving Universal Postal Union prices for transporting United States mail and national origin mail of their own countries.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1155.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41907(a)	49 App.:1376(h)(1).	Aug. 23, 1958, Pub. L. 85–726, §406(h)(1), 72 Stat. 765; Jan. 3, 1975, Pub. L. 93–623, §4, 88 Stat. 2103.
41907(b)	49 App.:1376(h)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §406(h)(3); added Jan. 3, 1975, Pub. L. 93–623, §4, 88 Stat. 2104.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In subsection (a), before clause (1), the word ''price'' is substituted for ''rate of compensation'' for consistency in this part. In clauses (1) and (2), the words ''government of a foreign country or foreign postal administration'' are substituted for ''foreign country'' for clarity and consistency in the revised title.

§ 41908. Prices for transporting mail of foreign countries

(a) PRICE DETERMINATIONS.—The United States Postal Service shall determine the prices that an air carrier holding a certificate that authorizes foreign air transportation must charge a government of a foreign country or foreign postal administration for transporting mail of the foreign country. The Postal Service shall put those prices into effect under the postal convention regulating postal relations between the United States and the foreign country or as provided under this section.

(b) CHANGES.—The Postal Service may authorize an air carrier holding a certificate that authorizes foreign air transportation, under limitations the Postal Service prescribes, to change the prices the carrier charges a government of a foreign country or foreign postal administration for transporting mail of the foreign country in the foreign country or between the foreign country and another foreign country.

(c) COLLECTING COMPENSATION.—(1) When an air carrier holding a certificate that authorizes foreign air transportation transports mail of a foreign country—

(A) under an arrangement with a government of a foreign country or foreign postal administration made or approved under this section, the carrier must collect its compensation for the transportation from the foreign country under the arrangement; and

(B) without having an arrangement with a government of a foreign country or foreign postal administration consistent with this section, the compensation collected by the United States Government for the transportation shall be for the account of the air carrier.

(2) An air carrier holding a certificate that authorizes foreign air transportation is not entitled to receive compensation from both a government of a foreign country or foreign postal administration and the United States Government for transporting the same mail of the foreign country.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1156.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41908(a)	49 App.:1375(f)(1) (2d, 3d sentences).	Aug. 23, 1958, Pub. L. 85–726, §405(f)(1) (2d–last sentences), (2), 72 Stat. 761.
41908(b)	49 App.:1375(f)(1) (last sentence).	
41908(c)	49 App.:1375(f)(2).	

In this section, the words ''government of a foreign country or foreign postal administration'' is substituted for ''foreign country'' for clarity and consistency in the revised title.

In subsection (a), the text of 49 App.:1375(f)(1) (3d sentence) is omitted as obsolete and superseded by 39:5402. The word ''prices'' is substituted for ''rates of compensation'' for consistency in this part. The words ''from time to time'' are omitted as surplus.

In subsection (c)(1), the words ''When . . . transports mail of a foreign country . . . (A) under an arrangement with a government of a foreign country or foreign postal administration made or approved under this section . . . (B) without having an arrangement with a government of a foreign country or foreign postal administration consistent with this section'' are substituted for ''In any case where . . . has an arrangement with any foreign country for transporting its mails, made or approved in accordance with the provisions of paragraph (1) of this subsection . . . and in case of the absence of any arrangement between the air carrier and the foreign country consistent with this subsection'' for clarity and to eliminate unnecessary words. The words ''for the transportation'' are added for clarity.

§ 41909. Duty to oppose unreasonable prices under the Universal Postal Union Convention

The Secretary of State and the United States Postal Service shall—

(1) take appropriate action to ensure that the prices paid for transporting mail under the Universal Postal Union Convention are not higher than reasonable prices for transporting mail; and

(2) oppose any existing or proposed Universal Postal Union price that is higher than a reasonable price for transporting mail.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1156.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41909	49 App.:1376(h)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 406(h)(2); added Jan. 3, 1975, Pub. L. 93–623, § 4, 88 Stat. 2103.

The words ''necessary and'' are omitted as being included in the word ''appropriate''. The words ''each'' and ''all'' are omitted as surplus. The words ''transporting mail'' are substituted for ''such services'' for consistency in this section. The word ''reasonable'' is substituted for ''fair and reasonable'' for consistency in the revised title and to eliminate an unnecessary word. See revision notes following 49:10101.

§ 41910. Weighing mail

The United States Postal Service may weigh mail transported by aircraft and make statistical and administrative computations necessary in the interest of mail service. When the Secretary of Transportation decides that additional or more frequent weighings of mail are advisable or necessary to carry out this part, the Postal Service shall provide the weighings, but it is not required to provide them for continuous periods of more than 30 days.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1157.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41910	49 App.:1376(f).	Aug. 23, 1958, Pub. L. 85–726, § 406(f), 72 Stat. 764.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

The text of 49 App.:1376(f) (2d sentence) is omitted as surplus because of 39:chs. 4 and 10. The words ''upon request of the Board'' are omitted as surplus because the Secretary of Transportation makes the determination. The words ''therefor in like manner'' are omitted as surplus.

§ 41911. Evidence of providing mail service

When and in the form required by the United States Postal Service, an air carrier transporting or handling—

(1) United States mail shall submit evidence, signed by an authorized official, that the transportation or handling has been provided; and

(2) mail of a foreign country shall submit evidence, signed by an authorized official, of the amount of mail transported or handled and the compensation payable and received for that transportation or handling.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1157.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41911	49 App.:1375(g).	Aug. 23, 1958, Pub. L. 85–726, § 405(g), 72 Stat. 762.

The word ''duly'' is omitted as surplus.

§ 41912. Effect on foreign postal arrangements

This part does not—

(1) affect an arrangement made by the United States Government with the postal administration of a foreign country related to the transportation of mail by aircraft; or

(2) impair the authority of the United States Postal Service to make such an arrangement.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1157.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41912	49 App.:1375(e)(1).	Aug. 23, 1958, Pub. L. 85–726, § 405(e)(1), 72 Stat. 761.

In clause (1), the words ''abrogate or'' are omitted as being included in ''affect''.

CHAPTER 421—LABOR-MANAGEMENT PROVISIONS

SUBCHAPTER I—EMPLOYEE PROTECTION PROGRAM

Sec.
42101. Definitions.
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SUBCHAPTER II—MUTUAL AID AGREEMENTS AND LABOR REQUIREMENTS OF AIR CARRIERS

42111. Mutual aid agreements.
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SUBCHAPTER I—EMPLOYEE PROTECTION PROGRAM

§ 42101. Definitions

(a) GENERAL.—In this subchapter—

(1) ''eligible protected employee'' means a protected employee who is deprived of employment, or who is adversely affected related to compensation, because of a qualifying dislocation.

(2) ''major contraction'' means a reduction (except as provided in subsection (b) of this section) of at least 7.5 percent in the number of full-time employees of an air carrier within a 12-month period, except for employees deprived of employment because of a strike or whose employment is ended for cause.

(3) ''protected employee'' means an individual who on October 24, 1978, had been employed for at least 4 years by an air carrier that held a certificate under section 401 of the Federal Aviation Act of 1958, but does not include a director or officer of a corporation.

(4) ''qualifying dislocation'' means a bankruptcy or major contraction of an air carrier holding a certificate under section 41102 of this title when the Secretary of Transportation finds the bankruptcy or contraction occurred after December 31, 1978, and before January 1, 1989, the major cause of which was the change in regulatory structure provided by the Airline Deregulation Act of 1978.

(b) MAJOR CONTRACTION.—The Secretary may find a reduction of less than 7.5 percent of the

number of full-time employees is part of a major contraction if the Secretary decides another reduction is likely to occur within the 12-month period in which the first reduction occurs that, when included with the first reduction, will result in a total reduction of more than 7.5 percent.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1157.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42101(a)(1) ..	49 App.:1552(a)(1) (last sentence).	Oct. 24, 1978, Pub. L. 95–504, §43(a)(1) (last sentence), (h), (i), 92 Stat. 1750, 1753.
42101(a)(2) ..	49 App.:1552(h)(4) (1st, last sentences).	
42101(a)(3) ..	49 App.:1552(h)(1).	
42101(a)(4) ..	49 App.:1552(h)(2), (3), (i).	
42101(b)	49 App.:1552(h)(4) (2d sentence), (i).	

In this subchapter, the words ''whose employment is ended'' are substituted for ''terminated'' for clarity.

In subsection (a)(2), the words ''(except as provided in subsection (b) of this section)'' are added because of the restatement. The word ''total'' is omitted as surplus. The words ''except for'' are substituted for ''In computing a 7½ percent reduction under this paragraph, the Board shall not include'' to eliminate unnecessary words.

In subsection (a)(3), the word ''individual'' is substituted for ''person'' for consistency. The words ''members of the board of'' are omitted as surplus.

In subsection (a)(4), the text of 49 App.:1552(h)(3) is omitted as surplus because the complete name of the Secretary of Labor is used the first time the term appears in a section.

In subsection (b), the word ''particular'' is omitted as surplus. The words ''of the number of full-time employees'' are added for clarity. The words ''of an air carrier'' are omitted as surplus. The word ''result'' is added for clarity.

REFERENCES IN TEXT

Section 401 of the Federal Aviation Act of 1958, referred to in subsec. (a)(3), is section 401 of Pub. L. 85–726, which was classified to section 1371 of former Title 49, Transportation, and was repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For disposition of section 1371 of former Title 49, see Table at the beginning of Title 49.

The Airline Deregulation Act of 1978, referred to in subsec. (a)(4), is Pub. L. 95–504, Oct. 24, 1978, 92 Stat. 1705, as amended, which was classified principally to sections of former Title 49, Transportation. The Act was substantially repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see Table at the beginning of Title 49.

§ 42102. Payments to eligible protected employees

(a) AUTHORITY TO PAY AND APPLICATIONS FOR PAYMENTS.—Subject to amounts provided in an appropriation law, the Secretary of Labor shall make monthly assistance payments, moving expense payments, and reimbursement payments as provided under this section to an eligible protected employee whose employment is not ended for cause. The employee must apply to receive the payments and cooperate with the Secretary in finding other employment.

(b) NUMBER AND AMOUNT OF PAYMENTS.—(1) Subject to amounts provided in an appropriation law, an eligible protected employee shall receive 72 monthly assistance payments. However, an eligible protected employee deprived of employment may not receive a payment after obtaining other employment. For each class or craft of protected employees, the Secretary of Labor, after consulting with the Secretary of Transportation, shall prescribe by regulation guidelines for computing the amount of each monthly assistance payment to be made to a member of the class or craft and what percentage of salary that payment represents.

(2) The amount of a monthly payment payable under paragraph (1) of this subsection to an eligible protected employee shall be reduced—

(A) by unemployment compensation the employee receives; or

(B) if the employee does not accept reasonably comparable employment, to an amount the employee would be entitled to receive if the employee had accepted the employment.

(3) If accepting comparable employment to avoid a reduction in the monthly assistance payment under paragraph (2) of this subsection would force an eligible protected employee to relocate, the employee may decide not to relocate. Instead of the payments provided under this section, the employee may receive the lesser of 3 payments or the maximum number of payments that remain to be paid under paragraph (1) of this subsection.

(c) MOVING EXPENSES AND REIMBURSEMENTS.—(1) Subject to amounts provided in an appropriation law, an eligible protected employee who relocates shall receive—

(A) reasonable moving expense payments to move the employee and the employee's immediate family; and

(B) reimbursement payments for a loss incurred in selling the employee's principal place of residence for less than fair market value or in cancelling a lease on, or contract to buy, the residence.

(2) The Secretary of Labor shall decide on the amount of the moving expenses and the fair market value of the residence.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1158.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42102(a)	49 App.:1552(a)(1) (1st sentence), (2), (d)(2) (4th sentence).	Oct. 24, 1978, Pub. L. 95–504, §43(a)(1) (1st sentence), (2), (b), (c), (d)(2) (4th sentence), (e), (i), 92 Stat. 1750, 1752, 1753.
42102(b)	49 App.:1552(b), (e), (i).	
42102(c)	49 App.:1552(c).	

In subsection (a), the words ''moving expense payments'' are added to reflect all 3 types of payments authorized under this section. The words ''in amounts computed'' are omitted as surplus. The word ''must'' is substituted for ''shall, as a condition to receiving such expenses or payments'' to eliminate unnecessary words. The word ''fully'' is omitted as surplus.

In subsection (b)(1), the words ''an eligible protected employee shall receive 72 monthly assistance pay-

ments'' are substituted for 49 App.:1552(e)(1) (1st–22d and 29th–49th words) and (2) to eliminate unnecessary words. The words ''However, an eligible protected employee deprived of employment may not receive a payment after obtaining other employment'' are substituted for ''until the recipient obtains other employment . . . whichever first occurs'' because of the restatement. The text of 49 App.:1552(b)(1) (1st sentence) and the words ''by him'' are omitted as surplus. The words ''by regulation'' are substituted for ''by rule'' for consistency in the revised title and with other titles of the United States Code and because ''rule'' and ''regulation'' are synonymous. The word ''computing'' is substituted for ''determining'' for clarity. The word ''applicable'' is omitted as surplus.

Subsection (b)(2) is substituted for 49 App.:1552(b)(1) (last sentence) and (2) (1st sentence) to eliminate unnecessary words.

In subsection (b)(3), the words ''force an eligible protected employee to relocate'' are substituted for ''require relocation'', and the words ''under this section'' are substituted for ''herein'', for clarity. The words ''the monthly assistance payments to which he would be entitled if this paragraph were not in effect, except that the total number of such payments shall be'' and ''the maximum provided in'' are omitted as surplus.

In subsection (c)(1), before clause (A), the words ''in order to obtain other employment, such employee'' are omitted as surplus. In clause (B), the words ''at a price'' and ''agreement'' are omitted as surplus.

§ 42103. Duty to hire protected employees

(a) REHIRING PROTECTED EMPLOYEES.—A protected employee of an air carrier regulated by the Secretary of Transportation who was furloughed or whose employment was ended by the carrier (except for cause) before October 23, 1988, is entitled to be the first employed in the occupational specialty of the employee, regardless of the employee's age, by any other air carrier holding a certificate under section 41102 of this title before October 24, 1978. However, the air carrier may recall its furloughed employees before hiring a protected employee of another air carrier regulated by the Secretary who was furloughed or whose employment was ended by the other carrier (except for cause) before October 23, 1988. An employee hired by an air carrier under this section retains seniority and recall rights with the air carrier that furloughed or ended the employment of the employee.

(b) DUTIES OF SECRETARY OF LABOR.—The Secretary of Labor—

(1) shall establish and publish periodically a list of jobs available with an air carrier holding a certificate under section 41102 of this title that includes necessary information and detail;

(2) shall assist eligible protected employees to find other employment;

(3) shall encourage negotiations between air carriers and representatives of employees on rehiring practices and seniority; and

(4) may require an air carrier to file with the Secretary information necessary to carry out this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1159.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42103(a)	49 App.:1552(d)(1), (i).	Oct. 24, 1978, Pub. L. 95–504, § 43(d)(1), (2) (1st–3d, last sentences), (3), (i), 92 Stat. 1751, 1752, 1753.
42103(b)	49 App.:1552(d)(2) (1st–3d, last sentences), (3).	

In subsection (a), the words ''person who is a'' and ''otherwise'' are omitted as surplus. The words ''before October 23, 1988'' are substituted for ''prior to the last day of the 10-year period beginning on October 24, 1978'', and the words ''is entitled to be the first employed'' are substituted for ''shall have first right of hire'', for clarity. The words ''hiring additional employees'', ''Each such air carrier hiring additional employees shall have a duty to hire such a person before they hire any other person'', ''own'', and ''who is furloughed or otherwise terminated (other than for cause), and'' are omitted as surplus.

In subsection (b)(1), the words ''comprehensive'' and ''such as job descriptions and required skills, the Secretary deems relevant and'' are omitted as surplus.

In subsection (b)(2), the words ''In addition to publishing the list'' are omitted as unnecessary because of the restatement. The words ''make every effort to'' are omitted as surplus.

In subsection (b)(3), the words ''In addition to making monthly assistance or reimbursement payments under this section'' are omitted because of the restatement.

In subsection (b)(4), the words ''In order to carry out his responsibilities under this subsection'' and ''reports, data, and other'' are omitted as surplus. The words ''carry out'' are substituted for ''fulfill his duties under'' for consistency.

§ 42104. Congressional review of regulations

(a) DEFINITION.—In this section, ''legislative day'' means a calendar day on which both Houses of Congress are in session.

(b) SUBMISSION TO CONGRESS.—The Secretary of Labor may not prescribe a regulation under this subchapter until 30 legislative days after the regulation is submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(c) EFFECTIVENESS OF REGULATIONS.—A proposed regulation under this subchapter shall be submitted to Congress and becomes effective only if, during the period of 60 legislative days after the regulation is submitted to Congress, either House does not pass a resolution disapproving the regulation. However, if Congress adopts a resolution approving the regulation during the 60-day period, the regulation is effective on that date.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1159; Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42104(a)	49 App.:1552(f)(4).	Oct. 24, 1978, Pub. L. 95–504, § 43(f), 92 Stat. 1752.
42104(b), (c)	49 App.:1552(f)(1)–(3).	

In subsection (a), the words ''the term'' are omitted as surplus.

In subsections (b) and (c), the word ''final'' is omitted as surplus.

In subsection (b), the word ''prescribe'' is substituted for ''issue'' for consistency. The word ''rule'' is omitted as being synonymous with ''regulation''. The text of 49 App.:1552(f)(1) is omitted as unnecessary. The text of 49 App.:1552(f)(2) is omitted as executed.

In subsection (c), the word ''proposed'' is added for clarity. The words ''by the Secretary under this section . . . regulation'' are omitted as surplus. The words ''the regulation is submitted to Congress'' are substituted for ''the date of such submission'' for clarity. The words ''stating that that House'' and ''by both Houses stating that the'' are omitted as surplus.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

§ 42105. Airline Employees Protective Account

The Department of Labor has an Airline Employees Protective Account consisting of amounts appropriated to it. An amount necessary to carry out this subchapter, including administrative expenses, may be appropriated to the Account annually.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1160.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42105	49 App.:1552(g).	Oct. 24, 1978, Pub. L. 95–504, §43(g), 92 Stat. 1752.

The first sentence is substituted for 49 App.:1552(g) (1st sentence) for consistency. The words ''beginning with the fiscal year ending September 30, 1979'' are omitted as executed. The words ''the purposes of'' and ''amounts necessary for the . . . of the Secretary related to carrying out the provisions of this section'' are omitted as surplus.

§ 42106. Ending effective date

This subchapter is not effective after the last day the Secretary of Labor must make a payment under this subchapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1160.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42106	49 App.:1552(j).	Oct. 24, 1978, Pub. L. 95–504, §43(j), 92 Stat. 1753.

The words ''is not effective after'' are substituted for ''shall terminate on'' for clarity and consistency in the revised title.

SUBCHAPTER II—MUTUAL AID AGREEMENTS AND LABOR REQUIREMENTS OF AIR CARRIERS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 40109, 41110, 46301 of this title.

§ 42111. Mutual aid agreements

An air carrier that will receive payments from another air carrier under an agreement between the air carriers for the time the one air carrier is not providing foreign air transportation, or is providing reduced levels of foreign air transportation, because of a labor strike must file a true copy of the agreement with the Secretary of Transportation and have it approved by the Secretary under section 41309 of this title. Notwithstanding section 41309, the Secretary shall approve the agreement only if it provides that—

(1) the air carrier will receive payments of not more than 60 percent of direct operating expenses, including interest expenses, but not depreciation or amortization expenses;

(2) benefits may be paid for not more than 8 weeks, and may not be for losses incurred during the first 30 days of a strike; and

(3) on request of the striking employees, the dispute will be submitted to binding arbitration under the Railway Labor Act (45 U.S.C. 151 et seq.).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1160.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42111	49 App.:1382(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §412(c); added Oct. 24, 1978, Pub. L. 95–504, §29(a), 92 Stat. 1730; Feb. 15, 1980, Pub. L. 96–192, §11(2), 94 Stat. 39; Oct. 4, 1984, Pub. L. 98–443, §9(s), 98 Stat. 1708.
	49 App.:1551(b)(1)(C) (related to 49 App.:1382(c)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(C) (related to §412(c)); added Oct. 24, 1978, Pub. L. 95–504, §40(a), 92 Stat. 1745; Oct. 14, 1982, Pub. L. 97–309, §4(b), 96 Stat. 1454; Oct. 4, 1984, Pub. L. 98–443, §3(a), 98 Stat. 1703.

In this section, before clause (1), the text of 49 App.:1382(c)(1) is omitted as executed. The words ''For purposes of this subsection, the term . . . (A) 'mutual aid agreement' means'' are omitted because of the restatement. The words ''contract or'', ''which are parties to such contract or agreement'', and ''during which'' are omitted as surplus. The word ''providing'' is substituted for ''engaging in'' for consistency. The words ''service in'' are omitted as surplus. The words ''No air carrier shall enter into any mutual aid agreement with any other air carrier'' are omitted as surplus. In clause (1), the words ''For purposes of this subsection, the term . . . (B) 'direct operating expenses' includes'' are omitted because of the restatement. The words ''for any period'' and ''during such period'' are omitted as surplus. In clause (2), the words ''under the agreement'' and ''during any labor strike'' are omitted as surplus.

REFERENCES IN TEXT

The Railway Labor Act, referred to in par. (3), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended, which is classified principally to chapter 8 (§151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41101, 41308, 41503, 41710 of this title.

§ 42112. Labor requirements of air carriers

(a) DEFINITIONS.—In this section—

(1) ''copilot'' means an employee whose duties include assisting or relieving the pilot in manipulating an aircraft and who is qualified to serve as, and has in effect an airman certificate authorizing the employee to serve as, a copilot.

(2) ''pilot'' means an employee who is—

(A) responsible for manipulating or who manipulates the flight controls of an air-

craft when under way, including the landing and takeoff of an aircraft; and

(B) qualified to serve as, and has in effect an airman certificate authorizing the employee to serve as, a pilot.

(b) DUTIES OF AIR CARRIERS.—An air carrier shall—

(1) maintain rates of compensation, maximum hours, and other working conditions and relations for its pilots and copilots who are providing interstate air transportation in the 48 contiguous States and the District of Columbia to conform with decision number 83, May 10, 1934, National Labor Board, notwithstanding any limitation in that decision on the period of its effectiveness;

(2) maintain rates of compensation for its pilots and copilots who are providing foreign air transportation or air transportation only in one territory or possession of the United States; and

(3) comply with title II of the Railway Labor Act (45 U.S.C. 181 et seq.) as long as it holds its certificate.

(c) MINIMUM ANNUAL RATE OF COMPENSATION.—A minimum annual rate under subsection (b)(2) of this section may not be less than the annual rate required to be paid for comparable service to a pilot or copilot under subsection (b)(1) of this section.

(d) COLLECTIVE BARGAINING.—This section does not prevent pilots or copilots of an air carrier from obtaining by collective bargaining higher rates of compensation or more favorable working conditions or relations.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1160.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
42112(a)	49 App.:1371(k)(5).	Aug. 23, 1958, Pub. L. 85–726, § 401(k), 72 Stat. 756.
42112(b), (c)	49 App.:1371(k)(1), (2), (4).	
42112(d)	49 App.:1371(k)(3).	

In subsection (a), the words ''properly'' and ''currently'' are omitted as surplus.

In subsection (b), the word ''providing'' is substituted for ''engaged in'' for consistency in the revised title. In clause (1), the words ''48 contiguous States and the District of Columbia'' are substituted for ''the continental United States (not including Alaska)'' for clarity and consistency in the revised title. In clause (2), the words ''overseas or'' are omitted as obsolete. The word ''only'' is substituted for ''wholly'' for consistency. In clause (3), the words ''as long as it holds'' are substituted for ''upon the holding'' for clarity.

In subsection (c), the words ''under subsection (b)(1) of this section'' are substituted for ''said decision 83 . . . engaged in interstate air transportation within the continental United States (not including Alaska)'' to eliminate unnecessary words.

In subsection (d), the words ''or other employees'' are omitted as unnecessary because this section only applies to pilots and copilots.

REFERENCES IN TEXT

The Railway Labor Act, referred to in subsec. (b)(3), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended. Title II of the Act was added by act Apr. 10, 1936, ch. 166, 49 Stat. 1189, and is classified generally to subchapter II (§ 181 et seq.) of chapter 8 of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 40109 of this title; title 39 section 5402.

SUBPART III—SAFETY

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 40101, 40102 of this title.

CHAPTER 441—REGISTRATION AND RECORDATION OF AIRCRAFT

Sec.
44101. Operation of aircraft.
44102. Registration requirements.
44103. Registration of aircraft.
44104. Registration of aircraft components and dealers' certificates of registration.
44105. Suspension and revocation of aircraft certificates.
44106. Revocation of aircraft certificates for controlled substance violations.
44107. Recordation of conveyances, leases, and security instruments.
44108. Validity of conveyances, leases, and security instruments.
44109. Reporting transfer of ownership.
44110. Information about aircraft ownership and rights.
44111. Modifications in registration and recordation system for aircraft not providing air transportation.
44112. Limitation of liability.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 40102, 45302, 46301, 46316 of this title.

§ 44101. Operation of aircraft

(a) REGISTRATION REQUIREMENT.—Except as provided in subsection (b) of this section, a person may operate an aircraft only when the aircraft is registered under section 44103 of this title.

(b) EXCEPTIONS.—A person may operate an aircraft in the United States that is not registered—

(1) when authorized under section 40103(d) or 41703 of this title;

(2) when it is an aircraft of the national defense forces of the United States and is identified in a way satisfactory to the Administrator of the Federal Aviation Administration; and

(3) for a reasonable period of time after a transfer of ownership, under regulations prescribed by the Administrator.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1161.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44101(a)	49 App.:1401(a) (1st sentence words before proviso less words between parentheses).	Aug. 23, 1958, Pub. L. 85–726, § 501(a), 72 Stat. 771.
44101(b)	49 App.:1401(a) (1st sentence words between parentheses, proviso, last sentence).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

In this section, the word ''navigate'' is omitted as being included in the definition of ''operate aircraft'' in section 40102(a) of the revised title.

In subsection (a), the words ''Except as provided in subsection (b) of this section'' are added for clarity. The words ''a person may . . . an aircraft only when the aircraft is registered under section 44103 of this title'' are substituted for ''It shall be unlawful . . . any aircraft eligible for registration if such aircraft is not registered by its owner as provided in this section, or . . . any aircraft not eligible for registration'' for clarity and to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''A person may operate an aircraft in the United States that is not registered'' are substituted for ''may be operated and navigated without being so registered'' and ''may . . . permit the operation and navigation of aircraft without registration'' for clarity. In clause (2), the words ''identified in a way'' are substituted for ''identified, by the agency having jurisdiction over them, in a manner'' to eliminate unnecessary words.

§ 44102. Registration requirements

(a) ELIGIBILITY.—An aircraft may be registered under section 44103 of this title only when the aircraft is—

(1) not registered under the laws of a foreign country and is owned by—

(A) a citizen of the United States;

(B) an individual citizen of a foreign country lawfully admitted for permanent residence in the United States; or

(C) a corporation not a citizen of the United States when the corporation is organized and doing business under the laws of the United States or a State, and the aircraft is based and primarily used in the United States; or

(2) an aircraft of—

(A) the United States Government; or

(B) a State, the District of Columbia, a territory or possession of the United States, or a political subdivision of a State, territory, or possession.

(b) DUTY TO DEFINE CERTAIN TERM.—In carrying out subsection (a)(1)(C) of this section, the Secretary of Transportation shall define ''based and primarily used in the United States''.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1161.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44102(a)(1) ..	49 App.:1401(b) (1st sentence cl. (1)).	Aug. 23, 1958, Pub. L. 85–726, §501(b), 72 Stat. 772; restated Nov. 9, 1977, Pub. L. 95–163, §14, 91 Stat. 1283; Mar. 8, 1978, Pub. L. 95–241, 92 Stat. 119.
44102(a)(2) ..	49 App.:1401(b) (1st sentence cl. (2)).	
44102(b)	49 App.:1401(b) (last sentence).	

In subsection (a), before clause (1), the words ''may be registered'' are substituted for ''shall be eligible for registration'', and the words ''under section 44103 of this title'' are added, for clarity. The words ''only when'' are substituted for ''if, but only if'' for consistency. In subclause (C), the words ''not a citizen of the United States'' are substituted for ''(other than a corporation which is a citizen of the United States)'' to eliminate unnecessary words. The word ''lawfully'' is omitted as surplus.

In subsection (b), the words ''In carrying out subsection (a)(1)(C) of this section'' are added because of the restatement. The words ''by regulation'' are omitted as unnecessary because of 49:322(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44103, 44105, 44106, 46306 of this title.

§ 44103. Registration of aircraft

(a) GENERAL.—(1) On application of the owner of an aircraft that meets the requirements of section 44102 of this title, the Administrator of the Federal Aviation Administration shall—

(A) register the aircraft; and

(B) issue a certificate of registration to its owner.

(2) The Administrator may prescribe the extent to which an aircraft owned by the holder of a dealer's certificate of registration issued under section 44104(2) of this title also is registered under this section.

(b) CONTROLLED SUBSTANCE VIOLATIONS.—(1) The Administrator may not issue an owner's certificate of registration under subsection (a)(1) of this section to a person whose certificate is revoked under section 44106 of this title during the 5-year period beginning on the date of the revocation, except—

(A) as provided in section 44106(e)(2) of this title; or

(B) that the Administrator may issue the certificate to the person after the one-year period beginning on the date of the revocation if the Administrator decides that the aircraft otherwise meets the requirements of section 44102 of this title and that denial of a certificate for the 5-year period—

(i) would be excessive considering the nature of the offense or the act committed and the burden the denial places on the person; or

(ii) would not be in the public interest.

(2) A decision of the Administrator under paragraph (1)(B)(i) or (ii) of this subsection is within the discretion of the Administrator. That decision or failure to make a decision is not subject to administrative or judicial review.

(c) CERTIFICATES AS EVIDENCE.—A certificate of registration issued under this section is—

(1) conclusive evidence of the nationality of an aircraft for international purposes, but not conclusive evidence in a proceeding under the laws of the United States; and

(2) not evidence of ownership of an aircraft in a proceeding in which ownership is or may be in issue.

(d) CERTIFICATES AVAILABLE FOR INSPECTION.—An operator of an aircraft shall make available for inspection a certificate of registration for the aircraft when requested by a United States Government, State, or local law enforcement officer.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1162.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44103(a)(1) ..	49 App.:1401(c), (d).	Aug. 23, 1958, Pub. L. 85–726, §§501(c), (d), (f), 505 (2d sentence), 72 Stat. 772, 774.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44103(a)(2) ..	49 App.:1405 (2d sentence).	
	49 App.:1655(c)(1).	
44103(b)	49 App.:1401(e)(2)(D), (E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §501(e)(2)(D), (E); added Oct. 19, 1984, Pub. L. 98–499, §4(a), 98 Stat. 2315.
44103(c)	49 App.:1401(f).	
44103(d)	49 App.:1401(g).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §501(g); added Oct. 27, 1986, Pub. L. 99–570, §3401(a)(2), 100 Stat. 3207–99.

In subsection (a)(1), the words ''On application'' are substituted for ''upon request'', and the words ''meets the requirements of section 44102 of this title'' are substituted for ''eligible for registration'', for consistency in this subchapter. The text of 49 App.:1401(d) is omitted as unnecessary because of 49:322(a).

In subsection (b)(1)(B), before subclause (i), the words ''after the one-year period beginning on the date of the revocation'' are substituted for ''before the end of such five-year period (but not before the end of the one-year period beginning on the date of such revocation)'' for clarity and to eliminate unnecessary words. The words ''otherwise meets the requirements of section 44102 of this title'' are substituted for ''is otherwise eligible for registration under this section'' because of the restatement. The words ''denial of a certificate'' are substituted for ''revocation of the certificate'' for clarity.

In subsection (c), before clause (1), the words ''A certificate of registration'' are substituted for ''Registration'' for clarity. In clause (2), the words ''by a particular person'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44101, 44102, 44105, 44106, 44109, 44110, 46306 of this title; title 10 section 9512.

§ 44104. Registration of aircraft components and dealers' certificates of registration

The Administrator of the Federal Aviation Administration may prescribe regulations—

(1) in the interest of safety for registering and identifying an aircraft engine, propeller, or appliance; and

(2) in the public interest for issuing, suspending, and revoking a dealer's certificate of registration under this chapter and for its use by a person manufacturing, distributing, or selling aircraft.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1162.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44104(1)	49 App.:1402.	Aug. 23, 1958, Pub. L. 85–726, §§502, 505 (1st sentence), 72 Stat. 772, 774.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44104(2)	49 App.:1405 (1st sentence).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1655(c)(1).	

In this section, before clause (1), the words ''prescribe regulations'' are substituted for ''establish reasonable rules and regulations'' in 49 App.:1402 and ''by such reasonable regulations'' in 49 App.:1405 (1st sentence) because of 49:322(a). In clause (1), the words ''and no aircraft engine, propeller, or appliance shall be used in violation of any such rule or regulation'' are omitted as surplus because of section 46301 of the revised title. In clause (2), the words ''in connection with'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 44103 of this title.

§ 44105. Suspension and revocation of aircraft certificates

The Administrator of the Federal Aviation Administration may suspend or revoke a certificate of registration issued under section 44103 of this title when the aircraft no longer meets the requirements of section 44102 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1163.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44105	49 App.:1401(e)(1).	Aug. 23, 1958, Pub. L. 85–726, §501(e)(1), 72 Stat. 772; Oct. 19, 1984, Pub. L. 98–499, §4(a), 98 Stat. 2314.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

The words ''when the aircraft no longer meets'' are substituted for ''for any cause which renders the aircraft ineligible'' for consistency.

§ 44106. Revocation of aircraft certificates for controlled substance violations

(a) DEFINITION.—In this section, ''controlled substance'' has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(b) REVOCATIONS.—(1) The Administrator of the Federal Aviation Administration shall issue an order revoking the certificate of registration for an aircraft issued to an owner under section 44103 of this title and any other certificate of registration that the owner of the aircraft holds under section 44103, if the Administrator finds that—

(A) the aircraft was used to carry out, or facilitate, an activity that is punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance); and

(B) the owner of the aircraft permitted the use of the aircraft knowing that the aircraft was to be used for the activity described in clause (A) of this paragraph.

(2) An aircraft owner that is not an individual is deemed to have permitted the use of the air-

craft knowing that the aircraft was to be used for the activity described in paragraph (1)(A) of this subsection only if a majority of the individuals who control the owner of the aircraft or who are involved in forming the major policy of the owner permitted the use of the aircraft knowing that the aircraft was to be used for the activity described in paragraph (1)(A).

(c) ADVICE TO HOLDERS AND OPPORTUNITY TO ANSWER.—Before the Administrator revokes a certificate under subsection (b) of this section, the Administrator shall—

(1) advise the holder of the certificate of the charges or reasons on which the Administrator bases the proposed action; and

(2) provide the holder of the certificate an opportunity to answer the charges and state why the certificate should not be revoked.

(d) APPEALS.—(1) A person whose certificate is revoked by the Administrator under subsection (b) of this section may appeal the revocation order to the National Transportation Safety Board. The Board shall affirm or reverse the order after providing notice and a hearing on the record. In conducting the hearing, the Board is not bound by the findings of fact of the Administrator.

(2) When a person files an appeal with the Board under this subsection, the order of the Administrator revoking the certificate is stayed. However, if the Administrator advises the Board that safety in air transportation or air commerce requires the immediate effectiveness of the order—

(A) the order remains effective; and

(B) the Board shall dispose of the appeal not later than 60 days after notification by the Administrator under this paragraph.

(3) A person substantially affected by an order of the Board under this subsection may seek judicial review of the order under section 46110 of this title. The Administrator shall be made a party to that judicial proceeding.

(e) ACQUITTAL.—(1) The Administrator may not revoke, and the Board may not affirm a revocation of, a certificate of registration under this section on the basis of an activity described in subsection (b)(1)(A) of this section if the holder of the certificate is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity.

(2) If the Administrator has revoked a certificate of registration of a person under this section because of an activity described in subsection (b)(1)(A) of this section, the Administrator shall reissue a certificate to the person if the person—

(A) subsequently is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity; and

(B) otherwise meets the requirements of section 44102 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1163.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44106(a)	49 App.:1401(e)(2)(C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §501(e)(2)(A)–(C), (F); added Oct. 19, 1984, Pub. L. 98–499, §4(a), 98 Stat. 2314, 2315.
44106(b)	49 App.:1401(e)(2)(A) (less last sentence).	
44106(c)	49 App.:1401(e)(2)(B) (1st sentence).	
44106(d)	49 App.:1401(e)(2)(B) (2d–last sentences).	
44106(e)	49 App.:1401(e)(2)(A) (last sentence), (F).	

In subsection (b)(2), the words ''knowing that the aircraft was to be used for the activity described in paragraph (1)(A) of this subsection'' are substituted for ''with knowledge of such intended use'' for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1133, 44103 of this title.

§ 44107. Recordation of conveyances, leases, and security instruments

(a) ESTABLISHMENT OF SYSTEM.—The Administrator of the Federal Aviation Administration shall establish a system for recording—

(1) conveyances that affect an interest in civil aircraft of the United States;

(2) leases and instruments executed for security purposes, including conditional sales contracts, assignments, and amendments, that affect an interest in—

(A) a specifically identified aircraft engine having at least 750 rated takeoff horsepower or its equivalent;

(B) a specifically identified aircraft propeller capable of absorbing at least 750 rated takeoff shaft horsepower;

(C) an aircraft engine, propeller, or appliance maintained for installation or use in an aircraft, aircraft engine, or propeller, by or for an air carrier holding a certificate issued under section 44705 of this title; and

(D) spare parts maintained by or for an air carrier holding a certificate issued under section 44705 of this title; and

(3) releases, cancellations, discharges, and satisfactions related to a conveyance, lease, or instrument recorded under clause (1) or (2) of this subsection.

(b) GENERAL DESCRIPTION REQUIRED.—A lease or instrument recorded under subsection (a)(2)(C) or (D) of this section only has to describe generally the engine, propeller, appliance, or spare part by type and designate its location.

(c) ACKNOWLEDGMENT.—Except as the Administrator otherwise may provide, a conveyance, lease, or instrument may be recorded under subsection (a) of this section only after it has been acknowledged before—

(1) a notary public; or

(2) another officer authorized under the laws of the United States, a State, the District of Columbia, or a territory or possession of the United States to acknowledge deeds.

(d) RECORDS AND INDEXES.—The Administrator shall—

(1) keep a record of the time and date that each conveyance, lease, and instrument is filed and recorded with the Administrator; and

(2) record each conveyance, lease, and instrument filed with the Administrator, in the order of their receipt, and index them by—

(A) the identifying description of the aircraft, aircraft engine, or propeller, or location specified in a lease or instrument recorded under subsection (a)(2)(C) or (D) of this section; and

(B) the names of the parties to each conveyance, lease, and instrument.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1164.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44107(a)(1) ..	49 App.:1403(a)(1).	Aug. 23, 1958, Pub. L. 85–726, §503(a)(1), (3), (b), 72 Stat. 772.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44107(a)(2)(A), (B).	49 App.:1403(a)(2).	Aug. 23, 1958, Pub. L. 85–726, §503(a)(2), 72 Stat. 772; restated July 8, 1959, Pub. L. 86–81, §1, 73 Stat. 180.
	49 App.:1655(c)(1).	
44107(a)(2)(C), (D).	49 App.:1403(a)(3) (less words between 13th comma and semicolon).	
	49 App.:1655(c)(1).	
44107(a)(3) ..	49 App.:1403(b).	
	49 App.:1655(c)(1).	
44107(b)	49 App.:1403(a)(3) (words between 13th comma and semicolon).	
44107(c)	49 App.:1403(e).	Aug. 23, 1958, Pub. L. 85–726, §503(e), 72 Stat. 773; restated June 30, 1964, Pub. L. 88–346, §2, 78 Stat. 236.
	49 App.:1655(c)(1).	
44107(d)	49 App.:1403(f).	Aug. 23, 1958, Pub. L. 85–726, §503(f), 72 Stat. 773; July 8, 1959, Pub. L. 86–81, §4, 73 Stat. 181.
	49 App.:1655(c)(1).	

In subsection (a)(1) and (2), the words ''title to'' are omitted as being included in ''interest in''.

In subsection (a)(2), before subclause (A), the word ''instruments'' is substituted for ''any mortgage, equipment trust . . . or other instrument'' because it is inclusive. The word ''supplement'' is omitted as being included in ''amendments''.

In subsection (a)(3), the words ''The Secretary of Transportation shall also record under the system'' are omitted as unnecessary because of the restatement.

In subsections (a)(3) and (c), the words ''lease, or instrument'' are substituted for ''other instrument'' for clarity and consistency in this subchapter.

In subsections (b) and (d), the words ''or locations'' are omitted because of 1:1.

In subsection (b), the words ''recorded under subsection (a)(2)(C) or (D) of this section'' are added for clarity. The words ''lease or instrument'' are substituted for ''instrument'' for clarity and consistency in this subchapter.

In subsection (c), before clause (1), the words ''by regulation'' are omitted because of 49:322(a). In clause (2), the words ''possession of the United States'' are substituted for ''possession thereof'' for clarity.

In subsection (d), the words ''lease, and instrument'' are substituted for ''other instruments'' for clarity and consistency in this subchapter. In clause (1), the words ''of the time and date of'' before ''recordation'' are omitted as unnecessary because of the restatement. In clause (2), before subclause (A), the words ''in files to be kept for that purpose'' are omitted as unnecessary. In subclause (A), the words ''location specified in a lease or instrument recorded under subsection (a)(2)(C) or (D) of this section'' are substituted for ''in the case of an instrument referred to in subsection (a)(3) of this section, the location or locations specified therein'' for clarity and consistency in this subchapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44108, 44704 of this title.

§ 44108. Validity of conveyances, leases, and security instruments

(a) VALIDITY BEFORE FILING.—Until a conveyance, lease, or instrument executed for security purposes that may be recorded under section 44107(a)(1) or (2) of this title is filed for recording, the conveyance, lease, or instrument is valid only against—

(1) the person making the conveyance, lease, or instrument;

(2) that person's heirs and devisees; and

(3) a person having actual notice of the conveyance, lease, or instrument.

(b) PERIOD OF VALIDITY.—When a conveyance, lease, or instrument is recorded under section 44107 of this title, the conveyance, lease, or instrument is valid from the date of filing against all persons, without other recordation, except that—

(1) a lease or instrument recorded under section 44107(a)(2)(A) or (B) of this title is valid for a specifically identified engine or propeller without regard to a lease or instrument previously or subsequently recorded under section 44107(a)(2)(C) or (D); and

(2) a lease or instrument recorded under section 44107(a)(2)(C) or (D) of this title is valid only for items at the location designated in the lease or instrument.

(c) APPLICABLE LAWS.—(1) The validity of a conveyance, lease, or instrument that may be recorded under section 44107 of this title is subject to the laws of the State, the District of Columbia, or the territory or possession of the United States at which the conveyance, lease, or instrument is delivered, regardless of the place at which the subject of the conveyance, lease, or instrument is located or delivered. If the conveyance, lease, or instrument specifies the place at which delivery is intended, it is presumed that the conveyance, lease, or instrument was delivered at the specified place.

(2) This subsection does not take precedence over the Convention on the International Recognition of Rights in Aircraft (4 U.S.T. 1830).

(d) NONAPPLICATION.—This section does not apply to—

(1) a conveyance described in section 44107(a)(1) of this title that was made before August 22, 1938; or

(2) a lease or instrument described in section 44107(a)(2) of this title that was made before June 20, 1948.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1165.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44108(a)	49 App.:1403(c) (less words after semicolon).	Aug. 23, 1958, Pub. L. 85–726, § 503(c), 72 Stat. 773.
44108(b)	49 App.:1403(d).	Aug. 23, 1958, Pub. L. 85–726, § 503(d), 72 Stat. 773; July 8, 1959, Pub. L. 86–81, § 3, 73 Stat. 181.
44108(c)(1) ..	49 App.:1406.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 506; added June 30, 1964, Pub. L. 88–346, § 1(a), 78 Stat. 236.
44108(c)(2) ..	49 App.:1406 (note).	June 30, 1964, Pub. L. 88–346, § 1(c), 78 Stat. 236.
44108(d)	49 App.:1403(c) (words after semicolon).	

In subsection (a), before clause (1), the words ''conveyance, lease, or instrument executed for security purposes'' are substituted for ''conveyance or instrument'' for clarity and consistency in this subchapter. The words ''in respect of such aircraft, aircraft engine or engines, propellers, appliances, or spare parts'' are omitted as surplus. The text of 49 App.:1403(c) (proviso words before semicolon) is omitted because of section 7(d) of this bill. In clause (1), the words ''person making the conveyance, lease, or instrument'' are substituted for ''the person by whom the conveyance or other instrument is made or given'' to eliminate unnecessary words and for consistency in this subchapter.

In subsection (b), before clause (1), the words ''When a conveyance, lease, or instrument is recorded under section 44107 of this title . . . from the date of filing'' are substituted for ''Each conveyance or other instrument recorded by means of or under the system provided for in subsection (a) or (b) of the section shall from the time of its filing for recordation'' for clarity and consistency in this subchapter and to eliminate unnecessary words. In clause (1), the words ''is valid'' are substituted for ''*Provided*, That . . . shall not be affected'' for consistency in this subchapter. The words ''or engines . . . or propellers'' are omitted because of 1:1. In clause (2), the words ''is valid'' are substituted for ''shall be effective'' for consistency in this subchapter. The words ''for items at the location designated in the lease or instrument'' are substituted for ''which may from time to time be situated at the designated location or locations and only while so situated'' for clarity and to eliminate unnecessary words.

In subsection (c)(1), the words ''conveyance, lease, or'' are added for consistency in this subchapter. The words ''the conveyance, lease, or instrument'' are substituted for ''therein'', and the words ''it is presumed'' are substituted for ''it shall constitute presumptive evidence'', for clarity.

In subsection (d)(2), the words ''lease or instrument'' are substituted for ''instrument'' for clarity and consistency in this subchapter.

§ 44109. Reporting transfer of ownership

(a) FILING NOTICES.—A person having an ownership interest in an aircraft for which a certificate of registration was issued under section 44103 of this title shall file a notice with the Secretary of the Treasury that the Secretary requires by regulation, not later than 15 days after a sale, conditional sale, transfer, or conveyance of the interest.

(b) EXEMPTIONS.—The Secretary—

(1) shall prescribe regulations that establish guidelines for exempting a person or class from subsection (a) of this section; and

(2) may exempt a person or class under the regulations.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1166.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44109(a)	49 App.:1509(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1109(f); added Oct. 27, 1986, Pub. L. 99–570, § 3401(d)(1), 100 Stat. 3207–101.
44109(b)	49 App.:1509 (note).	Oct. 27, 1986, Pub. L. 99–570, § 3401(d)(2), 100 Stat. 3207–102.

In subsection (a), the text of 49 App.:1509(f) (last sentence) is omitted as unnecessary.

In subsection (b)(1), the words ''Within 30 days after the date of enactment of subsection (f) of section 1109 of the Federal Aviation Act of 1958 as added by this subsection'' are omitted as obsolete.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46301, 46316 of this title.

§ 44110. Information about aircraft ownership and rights

The Administrator of the Federal Aviation Administration may provide by regulation for—

(1) endorsing information on each certificate of registration issued under section 44103 of this title and each certificate issued under section 44704 of this title about ownership of the aircraft for which each certificate is issued; and

(2) recording transactions affecting an interest in, and for other records, proceedings, and details necessary to decide the rights of a party related to, a civil aircraft of the United States, aircraft engine, propeller, appliance, or spare part.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1166.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44110	49 App.:1403(g). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85–726, § 503(g), 72 Stat. 774. Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In clause (1), the words ''each certificate of registration issued under section 44103 of this title and each certificate issued under section 44704 of this title'' are substituted for ''certificates of registration, or aircraft certificates'' for clarity and because of the restatement.

In clause (2), the words ''recording transactions'' are substituted for ''recording of discharges and satisfactions of recorded instruments, and other transactions'' to eliminate unnecessary words. The words ''title to'' are omitted as being included in ''interest in''. The words ''to decide'' are substituted for ''to facilitate the determination'' to eliminate unnecessary words. The words ''related to'' are substituted for ''dealing with'' for clarity. The word ''spare'' is added for consistency in this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 44704 of this title.

§ 44111. Modifications in registration and recordation system for aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) AUTHORITY TO MAKE MODIFICATIONS.—The Administrator of the Federal Aviation Administration shall make modifications in the system for registering and recording aircraft necessary to make the system more effective in serving the needs of—

(1) buyers and sellers of aircraft;

(2) officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)); and

(3) other users of the system.

(c) NATURE OF MODIFICATIONS.—Modifications made under subsection (b) of this section—

(1) may include a system of titling aircraft or registering all aircraft, even aircraft not operated;

(2) shall ensure positive, verifiable, and timely identification of the true owner; and

(3) shall address at least each of the following deficiencies in and abuses of the existing system:

(A) the registration of aircraft to fictitious persons.

(B) the use of false or nonexistent addresses by persons registering aircraft.

(C) the use by a person registering an aircraft of a post office box or ''mail drop'' as a return address to evade identification of the person's address.

(D) the registration of aircraft to entities established to facilitate unlawful activities.

(E) the submission of names of individuals on applications for registration of aircraft that are not identifiable.

(F) the ability to make frequent legal changes in the registration markings assigned to aircraft.

(G) the use of false registration markings on aircraft.

(H) the illegal use of ''reserved'' registration markings on aircraft.

(I) the large number of aircraft classified as being in ''self-reported status''.

(J) the lack of a system to ensure timely and adequate notice of the transfer of ownership of aircraft.

(K) the practice of allowing temporary operation and navigation of aircraft without the issuance of a certificate of registration.

(d) REGULATIONS.—(1) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out this section and provide a written explanation of how the regulations address each of the deficiencies and abuses described in subsection (c) of this section. In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Commissioner of Customs, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

(2) Regulations prescribed under this subsection shall require that—

(A) each individual listed in an application for registration of an aircraft provide with the application the individual's driver's license number; and

(B) each person (not an individual) listed in an application for registration of an aircraft provide with the application the person's taxpayer identifying number.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1166.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44111(a)	49 App.:1303 (note).	Nov. 11, 1988, Pub. L. 100–690, § 7214, 102 Stat. 4434.
44111(b)	49 App.:1401(h) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 501(h); added Nov. 11, 1988, Pub. L. 100–690, § 7203(a), 102 Stat. 4424.
44111(c)	49 App.:1401(h) (last sentence).	
44111(d)	49 App.:1401 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7207(a), (b), 102 Stat. 4427.

In subsection (c)(3)(D), the words ''corporations and others'' are omitted as surplus.

In subsection (d)(1), the words ''Not later than September 18, 1989'' and ''final'' are omitted as obsolete. The words ''Administrator of Drug Enforcement'' are substituted for ''Drug Enforcement Administration of the Department of Justice'' because of section 5(a) of Reorganization Plan No. 2 of 1973 (eff. July 1, 1973, 87 Stat. 1092).

DRUG ENFORCEMENT STATUS AND PROGRESS; REPORTS TO CONGRESS; DEFINITIONS

Pub. L. 100–690, title VII, § 7207(d), (e), Nov. 18, 1988, 102 Stat. 4428, provided that:

''(d) REPORT.—Not later than 180 days after the date of the enactment of this subtitle [Nov. 18, 1988] and annually thereafter during the 5-year period beginning on such 180th day, the Administrator shall prepare and transmit to Congress a report on the following:

''(1) The status of the rulemaking process, issuance of regulations, and implementation of regulations in accordance with this section [see subsec. (d) of this section].

''(2) The progress being made in reducing the number of aircraft classified by the Federal Aviation Administration as being in 'sale-reported status'.

''(3) The progress being made in expediting the filing and processing of forms for major repairs and alterations of fuel tanks and fuel systems of aircraft.

''(4) The status of establishing and collecting fees under section 313(f) of the Federal Aviation Act [see section 45302(b) of this title].

''(e) DEFINITIONS.—For purposes of this subtitle [subtitle E (§§ 7201–7214) of title VII of Pub. L. 100–690, see Tables for classification]—

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

''(2) AIRCRAFT.—The term 'aircraft' has the meaning such term has under section 101 of the Federal Aviation Act of 1958 [see section 40102 of this title].''

INFORMATION COORDINATION

Pub. L. 100–690, title VII, § 7210, Nov. 18, 1988, 102 Stat. 4432, provided that: ''Not later than 180 days after the date of the enactment of this subtitle [Nov. 18, 1988] and annually thereafter during the 3-year period beginning on such 180th day, the Administrator shall prepare and transmit to Congress a report on the following:

''(1) The progress made in establishing a process for provision of informational assistance by such Administration to officials of Federal, State, and local law enforcement agencies.

''(2) The progress made in establishing a process for effectively pursuing suspensions and revocations of certificates of registration and airman certificates in

accordance with the amendments made to the Federal Aviation Act of 1958 by the Aviation Drug-Trafficking Control Act [Pub. L. 98–499, see Tables for classification], section 3401 of the Anti-Drug Abuse Act of 1986 [Pub. L. 99–570], and this subtitle [subtitle E (§§ 7201–7214) of title VII of Pub. L. 100–690].

''(3) The efforts of such Administration in assessing and defining the appropriate relationship of such Administration's informational assistance resources (including the El Paso Intelligence Center and the Law Enforcement Assistance Unit of the Aeronautical Center of such Administration).

''(4) The progress made in issuing guidelines on (A) the reporting of aviation sensitive drug-related information, and (B) the development, in coordination with the Drug Enforcement Administration of the Department of Justice and the United States Customs Service, of training and educational policies to assist employees of such Administration to better understand (i) the trafficking of controlled substances (as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]), and (ii) the role of such Administration with respect to such trafficking.

''(5) The progress made in improving and expanding such Administration's role in the El Paso Intelligence Center.''

APPLICABILITY OF PAPERWORK REDUCTION ACT

Pub. L. 100–690, title VII, § 7211(b), Nov. 18, 1988, 102 Stat. 4433, provided that: ''No information collection requests necessary to carry out the objectives of this subtitle [subtitle E (§§ 7201–7214) of title VI of Pub. L. 100–690, see Tables for classification] (including the amendments made by this subtitle) shall be subject to or affect, directly or indirectly, the annual information collection budget goals established for the Federal Aviation Administration and the Department of Transportation under chapter 35 of title 44, United States Code.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 45302 of this title.

§ 44112. Limitation of liability

(a) DEFINITIONS.—In this section—

(1) ''lessor'' means a person leasing for at least 30 days a civil aircraft, aircraft engine, or propeller.

(2) ''owner'' means a person that owns a civil aircraft, aircraft engine, or propeller.

(3) ''secured party'' means a person having a security interest in, or security title to, a civil aircraft, aircraft engine, or propeller under a conditional sales contract, equipment trust contract, chattel or corporate mortgage, or similar instrument.

(b) LIABILITY.—A lessor, owner, or secured party is liable for personal injury, death, or property loss or damage on land or water only when a civil aircraft, aircraft engine, or propeller is in the actual possession or control of the lessor, owner, or secured party, and the personal injury, death, or property loss or damage occurs because of—

(1) the aircraft, engine, or propeller; or

(2) the flight of, or an object falling from, the aircraft, engine, or propeller.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1167.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44112	49 App.:1404.	Aug. 23, 1958, Pub. L. 85–726, § 504, 72 Stat. 774; restated July 8, 1959, Pub. L. 86–81, § 2, 73 Stat. 180.

In subsection (a), clauses (1) and (3) are derived from 49 App.:1404 (2d–57th words). Clause (2) is added for clarity. In clause (1), the words ''bona fide'' are omitted as surplus. In clause (3), the word ''nature'' is omitted as surplus.

In subsection (b), before clause (1), the words ''personal injury, death'' are substituted for ''any injury to or death of persons'', and the words ''on land or water'' are substituted for ''on the surface of the earth (whether on land or water)'', to eliminate unnecessary words. In clause (2), the words ''ascent, descent, or'' and ''dropping or'' are omitted as surplus.

CHAPTER 443—INSURANCE

Sec.
44301. Definitions.
44302. General authority.
44303. Coverage.
44304. Reinsurance.
44305. Insuring United States Government property.
44306. Premiums and limitations on coverage and claims.
44307. Revolving fund.
44308. Administrative.
44309. Civil actions.
44310. Ending effective date.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 10 section 9514.

§ 44301. Definitions

In this chapter—

(1) ''American aircraft'' means—

(A) a civil aircraft of the United States; and

(B) an aircraft owned or chartered by, or made available to—

(i) the United States Government; or

(ii) a State, the District of Columbia, a territory or possession of the United States, or a political subdivision of the State, territory, or possession.

(2) ''insurance carrier'' means a person authorized to do aviation insurance business in a State, including a mutual or stock insurance company and a reciprocal insurance association.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1168.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44301	49 App.:1531.	Aug. 23, 1958, Pub. L. 85–726, § 1301, 72 Stat. 800; restated Nov. 9, 1977, Pub. L. 95–163, § 1(a), 91 Stat. 1278.

In this section, the text of 49 App.:1531(3) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

In clause (1)(B)(i), the words ''United States Government'' are substituted for ''United States or any department or agency thereof'' for consistency in the revised title and with other titles of the United States Code.

In clause (1)(B)(ii), the words ''the government of'' are omitted for consistency in the revised title.

In clause (2), the words ''insurance company'' are omitted as being included in ''insurance carrier''. The words ''means a person'' are added because they are inclusive. The words ''group or association'' are omitted as being included in ''person''. The word ''State'' is substituted for ''State of the United States'' to eliminate unnecessary words.

§ 44302. General authority

(a) INSURANCE AND REINSURANCE.—(1) Subject to subsection (b) of this section and section 44305(a) of this title, the Secretary of Transportation may provide insurance and reinsurance against loss or damage arising out of any risk from the operation of an American aircraft or foreign-flag aircraft—

(A) in foreign air commerce; or

(B) between at least 2 places, all of which are outside the United States.

(2) An aircraft may be insured or reinsured for not more than its reasonable value as determined by the Secretary in accordance with reasonable business practices in the commercial aviation insurance industry. Insurance or reinsurance may be provided only when the Secretary decides that the insurance cannot be obtained on reasonable terms from an insurance carrier.

(b) PRESIDENTIAL APPROVAL.—The Secretary may provide insurance or reinsurance under subsection (a) of this section only with the approval of the President. The President may approve the insurance or reinsurance only after deciding that the continued operation of the American aircraft or foreign-flag aircraft to be insured or reinsured is necessary to carry out the foreign policy of the United States Government.

(c) CONSULTATION.—The President may require the Secretary to consult with interested departments, agencies, and instrumentalities of the Government before providing insurance or reinsurance under this chapter.

(d) ADDITIONAL INSURANCE.—With the approval of the Secretary, a person having an insurable interest in an aircraft may insure with other underwriters in an amount that is more than the amount insured with the Secretary. However, the Secretary may not benefit from the additional insurance. This subsection does not prevent the Secretary from making contracts of coinsurance.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1168; Pub. L. 105–137, § 2(a), Dec. 2, 1997, 111 Stat. 2640.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44302(a)	49 App.:1532(a)(1) (less words between 1st and 3d commas), (3).	Aug. 23, 1958, Pub. L. 85–726, § 1302(a), 72 Stat. 801; restated Nov. 9, 1977, Pub. L. 95–163, § 2, 91 Stat. 1278; Oct. 31, 1992, Pub. L. 102–581, § 401(b), 106 Stat. 4897.
	49 App.:1537(a) (last sentence words between 2d and 3d commas).	Aug. 23, 1958, Pub. L. 85–726, § 1307(a) (last sentence words between 2d and 3d commas), 72 Stat. 804; Oct. 4, 1984, Pub. L. 98–443, § 9(b), 98 Stat. 1706.
44302(b)	49 App.:1532(a)(1) (words between 1st and 2d commas), (2).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44302(c)	49 App.:1532(a)(1) (words between 2d and 3d commas).	
44302(d)	49 App.:1541.	Aug. 23, 1958, Pub. L. 85–726, § 1311, 72 Stat. 806.

In subsection (a)(1), before clause (A), the words ''Subject to subsection (b) of this section'' are added, and the words ''American aircraft or foreign-flag aircraft'' are substituted for ''aircraft'' in 49 App.:1532(a), for clarity. The words ''in the manner and to the extent provided by this subchapter'' are omitted as unnecessary. The words ''Insurance shall be issued under this subchapter only to cover any risk from the operation of an aircraft . . . such aircraft is'' are omitted because of the restatement. In clause (B), the word ''places'' is substituted for ''points'' for consistency in the revised title.

In subsection (a)(2), the words ''An aircraft may be insured or reinsured for not more than'' are substituted for ''and such stated amount shall not exceed'' in 49 App.:1537(a) for clarity and because of the restatement. The words ''its reasonable value'' are substituted for ''an amount . . . to represent the fair and reasonable value of the aircraft'' to eliminate unnecessary words. The words ''Insurance or reinsurance may be provided only'' are added because of the restatement. The word ''conditions'' is omitted as being included in ''terms''.

In subsection (b), the words ''The Secretary may provide insurance or reinsurance under subsection (a) of this section only with the approval of the President'' are substituted for ''with the approval of the President'' for clarity and because of the restatement. The words ''The President may'' are substituted for ''The President shall'' because the authority of the President is discretionary.

In subsection (c), the words ''the Secretary to consult . . . before providing insurance or reinsurance under this chapter'' are substituted for ''and after such consultation . . . as'' because of the restatement. The words ''departments, agencies, and instrumentalities'' are substituted for ''agencies'' for consistency in the revised title and with other titles of the United States Code.

In subsection (d), the words ''However, the Secretary may not benefit from the additional insurance'' are substituted for ''in that event, the Secretary shall not be entitled to the benefit of such insurance'' for clarity.

AMENDMENTS

1997—Subsec. (a)(2). Pub. L. 105–137 substituted ''as determined by the Secretary in accordance with reasonable business practices in the commercial aviation insurance industry.'' for ''as determined by the Secretary.''

PROVISION OF AVIATION INSURANCE COVERAGE FOR COMMERCIAL AIR CARRIER SERVICE

Determination of President of the United States, No. 94–39, July 26, 1994, 59 F.R. 38551, provided:

By virtue of the authority vested in me by the Constitution and laws of the United States, including 3 U.S.C. 301 and 49 U.S.C. 44302, I hereby:

(1) determine that continuation of authorized humanitarian relief air services to Haiti is necessary to carry out the foreign policy of the United States;

(2) approve provision by the Secretary of Transportation of insurance against loss or damage arising out of any risk from the operation of an aircraft in the manner and to the extent provided in 49 U.S.C. 44301–44310, whenever he determines that such insurance cannot be obtained on reasonable terms and conditions from any company authorized to conduct an insurance business in a State of the United States;

(3) delegate to the Secretary of Transportation, in consultation with the Secretary of State, the author-

ity vested in me by 49 U.S.C. 44302(b), for purposes of responding to the current crisis in Haiti; and

(4) delegate to the Secretary of Transportation, in consultation with the Secretary of State, the authority vested in me by 49 U.S.C. 44306(b) for purposes of responding to the current crisis in Haiti.

The Secretary of Transportation is directed to bring this determination immediately to the attention of all air carriers within the meaning of 49 U.S.C. 40102(a)(2), and to arrange for its publication in the Federal Register.

WILLIAM J. CLINTON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44303, 44305 of this title.

§ 44303. Coverage

The Secretary of Transportation may provide insurance and reinsurance authorized under section 44302 of this title for the following:

(1) an American aircraft or foreign-flag aircraft engaged in aircraft operations the President decides are necessary to carry out the foreign policy of the United States Government.

(2) property transported or to be transported on aircraft referred to in clause (1) of this section, including—

(A) shipments by express or registered mail;

(B) property owned by citizens or residents of the United States;

(C) property—

(i) imported to, or exported from, the United States; and

(ii) bought or sold by a citizen or resident of the United States under a contract putting the risk of loss or obligation to provide insurance against risk of loss on the citizen or resident; and

(D) property transported between—

(i) a place in a State or the District of Columbia and a place in a territory or possession of the United States;

(ii) a place in a territory or possession of the United States and a place in another territory or possession of the United States; or

(iii) 2 places in the same territory or possession of the United States.

(3) the personal effects and baggage of officers and members of the crew of an aircraft referred to in clause (1) of this section and of other individuals employed or transported on that aircraft.

(4) officers and members of the crew of an aircraft referred to in clause (1) of this section and other individuals employed or transported on that aircraft against loss of life, injury, or detention.

(5) statutory or contractual obligations or other liabilities, customarily covered by insurance, of an aircraft referred to in clause (1) of this section or of the owner or operator of that aircraft.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1169.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44303	49 App.:1533.	Aug. 23, 1958, Pub. L. 85–726, §1303, 72 Stat. 801; restated Nov. 9, 1977, Pub. L. 95–163, §3, 91 Stat. 1279.

In this section, before clause (1), the words ''persons, property, or interest'' are omitted as unnecessary. In clause (2), the word ''property'' is substituted for ''Cargoes'' and ''air cargoes'' for consistency in the revised title. In clause (2)(B) and (C), the words ''its territories, or possessions'' are omitted as unnecessary because of the definition of ''United States'' in section 40102(a) of the revised title. In clause (2)(C)(ii), the word ''contract'' is substituted for ''contracts of sale or purchase'', and the words ''putting . . . on'' are substituted for ''is assumed by or falls upon'', to eliminate unnecessary words. In clause (2)(D), the word ''place'' is substituted for ''point'' for consistency in the revised title. In subclause (i), the words ''a State or the District of Columbia'' are substituted for ''the United States'' for clarity and consistency because the definition of ''United States'' in section 40102(a) of the revised title is too broad for the context of the clause. The definition in section 40102(a) includes territories and possession and would therefore overlap with subclauses (ii) and (iii). In subclause (iii), the words ''2 places in the same territory or possession of the United States'' are substituted for ''any point in any such territory or possession and any other point in the same territory or possession'' for clarity. In clauses (3) and (4), the word ''individuals'' is substituted for ''persons'' as being more appropriate. The words ''captains'' and ''pilots'' are omitted as being included in ''officers and members of the crew''.

§ 44304. Reinsurance

(a) GENERAL AUTHORITY.—To the extent the Secretary of Transportation is authorized to provide insurance under this chapter, the Secretary may reinsure any part of the insurance provided by an insurance carrier. The Secretary may reinsure with, transfer to, or transfer back to, the carrier any insurance or reinsurance provided by the Secretary under this chapter.

(b) PREMIUM LEVELS.—The Secretary may provide reinsurance at premiums not less than, or obtain reinsurance at premiums not higher than, the premiums the Secretary establishes on similar risks or the premiums the insurance carrier charges for the insurance to be reinsured by the Secretary, whichever is most advantageous to the Secretary. However, the Secretary may make allowances to the insurance carrier for expenses incurred in providing services and facilities that the Secretary considers good business practice, except for payments by the carrier for the stimulation or solicitation of insurance business.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1169.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44304(a)	49 App.:1535(a).	Aug. 23, 1958, Pub. L. 85–726, §1305, 72 Stat. 802; Nov. 9, 1977, Pub. L. 95–163, §4(a), 91 Stat. 1279.
44304(b)	49 App.:1535(b).	

In subsection (a), the words ''may reinsure any part of the insurance provided by an insurance carrier'' are substituted for ''may reinsure, in whole or in part, any

company authorized to do an insurance business'' for clarity and consistency with source provisions restated in this subchapter and the definition of ''insurance carrier'' in section 44301 of the revised title. The words ''transfer to, or transfer back to'' are substituted for ''cede or retrocede to'' for clarity.

In subsection (b), the word ''same'' is omitted as being included in ''similar''. The words ''on account of the cost of'' are omitted as surplus. The word ''providing'' is substituted for ''rendered'' and ''furnished'' because it is inclusive. The words ''except for'' are substituted for ''but such allowance to the carrier shall not provide for'' to eliminate unnecessary words.

§ 44305. Insuring United States Government property

(a) GENERAL.—With the approval of the President, a department, agency, or instrumentality of the United States Government may obtain—

(1) insurance under this chapter, including insurance for risks from operating an aircraft in intrastate or interstate air commerce, but not including insurance on valuables subject to sections 1 and 2 of the Government Losses in Shipment Act (40 U.S.C. 721, 722); and

(2) insurance for risks arising from providing goods or services directly related to and necessary for operating an aircraft covered by insurance obtained under clause (1) of this subsection if the aircraft is operated—

(A) in carrying out a contract of the department, agency, or instrumentality; or

(B) to transport military forces or materiel on behalf of the United States under an agreement between the Government and the government of a foreign country.

(b) PREMIUM WAIVERS AND INDEMNIFICATION.—With the approval required under subsection (a) of this section, the Secretary of Transportation may provide the insurance without premium at the request of the Secretary of Defense or the head of a department, agency, or instrumentality designated by the President when the Secretary of Defense or the designated head agrees to indemnify the Secretary of Transportation against all losses covered by the insurance. The Secretary of Defense and any designated head may make indemnity agreements with the Secretary of Transportation under this section. If such an agreement is countersigned by the President or the President's designee, the agreement shall constitute, for purposes of section 44302(b), a determination that continuation of the aircraft operations to which the agreement applies is necessary to carry out the foreign policy of the United States.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1170; Pub. L. 105–137, § 3, Dec. 2, 1997, 111 Stat. 2640.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44305	49 App.:1534.	Aug. 23, 1958, Pub. L. 85–726, § 1304, 72 Stat. 802; Oct. 31, 1992, Pub. L. 102–581, § 401(a), 106 Stat. 4897.

In this section, the words ''a department, agency, or instrumentality'' are substituted for ''Any department or agency'' for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (a)(1), the words ''obtain insurance under this chapter'' are substituted for ''procure from the Secretary any of the insurance provided under this subchapter'' to eliminate unnecessary words. The words ''overseas air commerce'' are omitted for the reasons given in the revision note for section 40101.

In subsection (b), the words ''or the head of a department, agency, or instrumentality designated by the President'' are substituted for ''and such other agencies as the President may prescribe'' as being more precise and for consistency in the revised title. The words ''when the Secretary of Defense or the designated head agrees'' are substituted for ''in consideration of'' for clarity. The words ''any designated head'' are substituted for ''the agreement of . . . such agency'' and ''such other agencies'' for clarity and because of the restatement.

AMENDMENTS

1997—Subsec. (b). Pub. L. 105–137 inserted at end ''If such an agreement is countersigned by the President or the President's designee, the agreement shall constitute, for purposes of section 44302(b), a determination that continuation of the aircraft operations to which the agreement applies is necessary to carry out the foreign policy of the United States.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 44302 of this title; title 10 section 9514.

§ 44306. Premiums and limitations on coverage and claims

(a) PREMIUMS BASED ON RISK.—To the extent practical, the premium charged for insurance or reinsurance under this chapter shall be based on consideration of the risk involved.

(b) TIME LIMITS.—The Secretary of Transportation may provide insurance and reinsurance under this chapter for a period of not more than 60 days. The period may be extended for additional periods of not more than 60 days each only if the President decides, before each additional period, that the continued operation of the aircraft to be insured or reinsured is necessary to carry out the foreign policy of the United States Government.

(c) MAXIMUM INSURED AMOUNT.—The insurance policy on an aircraft insured or reinsured under this chapter shall specify a stated amount that is not more than the value of the aircraft, as determined by the Secretary in accordance with reasonable business practices in the commercial aviation insurance industry. A claim under the policy may not be paid for more than that stated amount.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1170; Pub. L. 105–137, § 2(b), Dec. 2, 1997, 111 Stat. 2640.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44306(a)	49 App.:1532(b).	Aug. 23, 1958, Pub. L. 85–726, § 1302(b), (c), 72 Stat. 801; restated Nov. 9, 1977, Pub. L. 95–163, § 2, 91 Stat. 1279.
44306(b)	49 App.:1532(c).	
44306(c)	49 App.:1537(a) (last sentence less words between 2d and 3d commas).	Aug. 23, 1958, Pub. L. 85–726, § 1307(a) (last sentence less words between 2d and 3d commas), 72 Stat. 804; Oct. 4, 1984, Pub. L. 98–443, § 9(b), 98 Stat. 1706.

In subsection (a), the words ''To the extent'' are substituted for ''insofar as'' for consistency.

In subsection (b), the word ''initial'' is omitted as surplus. The words ''The period'' are substituted for ''Such insurance or reinsurance'', and the words ''the

President decides . . . that the continued operation of the aircraft to be insured or reinsured is necessary to carry out the foreign policy of the United States Government'' are substituted for ''the President makes the same determination with respect to such extension as he is required to make under paragraph (2) of subsection (a) of this section for the initial provision of such insurance or reinsurance'', for clarity.

In subsection (c), the words ''or reinsured'' are added for consistency. The words ''to be paid in the event of total loss'' are omitted as unnecessary because of the last sentence. The words ''A claim under the policy may not be paid for more than that stated amount'' are substituted for ''the amount of any claim which is compromised, settled, adjusted, or paid shall in no event exceed such stated amount'' to eliminate unnecessary words.

AMENDMENTS

1997—Subsec. (c). Pub. L. 105–137 substituted ''as determined by the Secretary in accordance with reasonable business practices in the commercial aviation insurance industry.'' for ''as determined by the Secretary.''

§ 44307. Revolving fund

(a) EXISTENCE, DISBURSEMENTS, APPROPRIATIONS, AND DEPOSITS.—(1) There is a revolving fund in the Treasury. The Secretary of the Treasury shall disburse from the fund payments to carry out this chapter.

(2) Necessary amounts to carry out this chapter may be appropriated to the fund. The amounts appropriated and other amounts received in carrying out this chapter shall be deposited in the fund.

(b) INVESTMENT.—On request of the Secretary of Transportation, the Secretary of the Treasury may invest any part of the amounts in the revolving fund in interest-bearing securities of the United States Government. The interest on, and the proceeds from the sale or redemption of, the securities shall be deposited in the fund.

(c) EXCESS AMOUNTS.—The balance in the revolving fund in excess of an amount the Secretary of Transportation determines is necessary for the requirements of the fund and for reasonable reserves to maintain the solvency of the fund shall be deposited at least annually in the Treasury as miscellaneous receipts.

(d) EXPENSES.—The Secretary of Transportation shall deposit annually an amount in the Treasury as miscellaneous receipts to cover the expenses the Government incurs when the Secretary of Transportation uses appropriated amounts in carrying out this chapter. The deposited amount shall equal an amount determined by multiplying the average monthly balance of appropriated amounts retained in the revolving fund by a percentage that is at least the current average rate payable on marketable obligations of the Government. The Secretary of the Treasury shall determine annually in advance the percentage applied.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1170.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44307(a)	49 App.:1536(a), (b).	Aug. 23, 1958, Pub. L. 85–726, §1306(a)–(d), 72 Stat. 803.
44307(b)	49 App.:1536(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1306(f); added Aug. 9, 1975, Pub. L. 94–90, §1(a), 89 Stat. 439.
44307(c)	49 App.:1536(c).	
44307(d)	49 App.:1536(d).	

In subsection (a)(1), the first sentence is added for clarity. The last sentence is substituted for 49 App.:1536(a) (last sentence) to eliminate unnecessary words and for consistency in the revised title.

In subsection (a)(2), the words ''The amounts appropriated and other amounts received in carrying out this chapter'' are substituted for ''Moneys appropriated by Congress to carry out the provisions of this subchapter and all moneys received from premiums, salvage, or other recoveries and all receipts in connection with this subchapter'' to eliminate unnecessary words.

In subsection (b), the words ''any part'' are substituted for ''all or any part'' to eliminate unnecessary words. The words ''held in the revolving fund'' are omitted as surplus. The words ''deposited in'' are substituted for ''credited to and form a part of'' for consistency.

In subsection (d), the words ''The Secretary of Transportation shall deposit annually an amount in the Treasury'' are substituted for ''Annual payments shall be made by the Secretary to the Treasury of the United States'', the words ''The deposited amount shall equal an amount determined by multiplying'' are substituted for ''These payments shall be computed by applying to'', and the words ''a percentage that is at least the current average rate payable on marketable obligations of the Government'' are substituted for ''a percentage'' and ''Such percentage shall not be less than the current average rate which the Treasury pays on its marketable obligations'', for clarity.

§ 44308. Administrative

(a) COMMERCIAL PRACTICES.—The Secretary of Transportation may carry out this chapter consistent with commercial practices of the aviation insurance business.

(b) ISSUANCE OF POLICIES AND DISPOSITION OF CLAIMS.—(1) The Secretary may issue insurance policies to carry out this chapter. The Secretary may prescribe the forms, amounts insured under the policies, and premiums charged. Any such policy may authorize the binding arbitration of claims made thereunder in such manner as may be agreed to by the Secretary and any commercial insurer that may be responsible for any part of a loss to which such policy relates. The Secretary may change an amount of insurance or a premium for an existing policy only with the consent of the insured.

(2) For a claim under insurance authorized by this chapter, the Secretary may—

(A) settle and pay the claim made for or against the United States Government;

(B) pay the amount of a binding arbitration award made under paragraph (1); and

(C) pay the amount of a judgment entered against the Government.

(c) UNDERWRITING AGENT.—(1) The Secretary may, and when practical shall, employ an insurance carrier or group of insurance carriers to act as an underwriting agent. The Secretary may use the agent to adjust claims under this chapter, but claims may be paid only when approved by the Secretary.

(2) The Secretary may pay reasonable compensation to an underwriting agent for servicing insurance the agent writes for the Secretary. Compensation may include payment for reason-

able expenses incurred by the agent but may not include a payment by the agent for stimulation or solicitation of insurance business.

(3) Except as provided by this subsection, the Secretary may not pay an insurance broker or other person acting in a similar capacity any consideration for arranging insurance when the Secretary directly insures any part of the risk.

(d) BUDGET.—The Secretary shall submit annually a budget program for carrying out this chapter as provided for wholly owned Government corporations under chapter 91 of title 31.

(e) ACCOUNTS.—The Secretary shall maintain a set of accounts for audit under chapter 35 of title 31. Notwithstanding chapter 35, the Comptroller General shall allow credit for expenditures under this chapter made consistent with commercial practices in the aviation insurance business when shown to be necessary because of the business activities authorized by this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1171; Pub. L. 104–316, title I, § 127(e), Oct. 19, 1996, 110 Stat. 3840; Pub. L. 105–137, § 4, Dec. 2, 1997, 111 Stat. 2640.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44308(a)	49 App.:1537(c) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1307(a) (1st sentence), (c), (d), 72 Stat. 803, 804.
44308(b)(1) ..	49 App.:1537(a) (1st sentence words before 6th comma).	
	49 App.:1537(b).	Aug. 23, 1958, Pub. L. 85–726, § 1307(b), 72 Stat. 804; Nov. 9, 1977, Pub. L. 95–163, § 5(a), 91 Stat. 1280.
44308(b)(2) ..	49 App.:1537(a) (1st sentence words after 6th comma).	
44308(c)(1) ..	49 App.:1537(d) (1st, 3d sentences).	
44308(c)(2) ..	49 App.:1537(d) (2d, last sentences).	
44308(c)(3) ..	49 App.:1537(c) (last sentence).	
44308(d)	49 App.:1537(f) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 1307(f), 72 Stat. 804; Jan. 2, 1975, Pub. L. 93–604, § 702, 88 Stat. 1964.
44308(e)	49 App.:1537(f) (last sentence).	

In subsection (a), the words ''may carry out this chapter'' are substituted for ''in administering this subchapter, may exercise his powers, perform his duties and functions, and make his expenditures'' to eliminate unnecessary words.

In subsection (b)(1), the word ''insurance'' is added for clarity. The words ''rules, and regulations'' are omitted as unnecessary because of 49:322(a). The words ''as he deems proper'' and ''subject to the following provisions of this subsection'' are omitted as surplus. The words ''and change'' and ''fix, adjust, and change'' are omitted as being included in ''prescribe''. The words ''under the policies'' are added for clarity. The word ''charged'' is substituted for ''provided for in this subchapter'' for consistency in this subchapter.

In subsection (b)(2), before clause (A), the words ''the Secretary'' are added because of the restatement. In clause (A), the words ''adjust and . . . losses, compromise and'' are omitted as included in ''settle and pay the claim''. The word ''made'' is substituted for ''whether'' for clarity. In clause (B), the word ''entered'' is substituted for ''rendered'' because it is more appropriate. The words ''in any suit'' are omitted as surplus. The words ''or the amount of any settlement agreed upon'' are omitted as being included in ''settle and pay the claim''.

In subsection (c)(1), the words ''and when practical shall'' are substituted for ''and whenever he finds it practical to do so shall'' to eliminate unnecessary words. The word ''his'' is omitted as surplus. The words ''The Secretary may use'' are substituted for ''may be utilized'' for consistency. The words ''The services of'' are omitted as unnecessary.

In subsection (c)(2), the words ''pay reasonable compensation'' are substituted for ''allow . . . fair and reasonable compensation'' for consistency in the revised title. The words ''an underwriting agent'' are substituted for ''such companies or groups of companies'', and the words ''the agent writes'' are substituted for ''written by such companies or groups of companies as underwriting agent'', for clarity. The word ''payment'' is substituted for ''allowance'' for consistency.

In subsection (c)(3), the words ''intermediary'' and ''fee or other'' are omitted as surplus. The word ''for'' is substituted for ''by virtue of his participation in'' to eliminate unnecessary words.

In subsection (d), the word ''prepare'' is omitted as being included in ''submit''. The words ''for carrying out this chapter'' are substituted for ''in the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter'' for consistency and to eliminate unnecessary words. The words ''under chapter 91 of title 31'' are substituted for ''by the Government Corporation Control Act, as amended (59 Stat. 597; 31 U.S.C. 841)'' in section 1307(f) of the Act of August 23, 1958 (Public Law 85–726, 72 Stat. 804) because of section 4(b) of the Act of September 13, 1982 (Public Law 97–258, 96 Stat. 1067).

In subsection (e), the words ''under chapter 35 of title 31'' are substituted for ''in accordance with the provisions of the Accounting and Auditing Act of 1950'' in section 1307(f) of the Act of August 23, 1958 (Public Law 85–726, 72 Stat. 804) because of section 4(b) of the Act of September 13, 1982 (Public Law 97–258, 96 Stat. 1067). The words ''*Provided*, That . . . the Secretary may exercise the powers conferred in said subchapter, perform the duties and functions'' are omitted as surplus. The words ''Notwithstanding chapter 35'' are added for clarity. The words ''Comptroller General'' are substituted for ''General Accounting Office'' because of 31:702.

AMENDMENTS

1997—Subsec. (b)(1). Pub. L. 105–137, § 4(a), inserted after second sentence ''Any such policy may authorize the binding arbitration of claims made thereunder in such manner as may be agreed to by the Secretary and any commercial insurer that may be responsible for any part of a loss to which such policy relates.''

Subsec. (b)(2). Pub. L. 105–137, § 4(b), struck out ''and'' at end of subpar. (A), added subpar. (B), and redesignated former subpar. (B) as (C).

1996—Subsec. (e). Pub. L. 104–316 substituted ''for audit'' for ''. The Comptroller General shall audit those accounts''.

§ 44309. Civil actions

(a) DISPUTED LOSSES.—A person may bring a civil action in a district court of the United States against the United States Government when a loss insured under this chapter is in dispute. A civil action involving the same matter (except the action authorized by this subsection) may not be brought against an agent, officer, or employee of the Government carrying out this chapter. To the extent applicable, the procedure in an action brought under section 1346(a)(2) of title 28 applies to an action under this subsection.

(b) VENUE AND JOINDER.—(1) A civil action under subsection (a) of this section may be brought in the judicial district for the District of Columbia or in the judicial district in which the plaintiff or the agent of the plaintiff resides

if the plaintiff resides in the United States. If the plaintiff does not reside in the United States, the action may be brought in the judicial district for the District of Columbia or in the judicial district in which the Attorney General agrees to accept service.

(2) An interested person may be joined as a party to a civil action brought under subsection (a) of this section initially or on motion of either party to the action.

(c) TIME REQUIREMENTS.—When an insurance claim is made under this chapter, the period during which, under section 2401 of title 28, a civil action must be brought under subsection (a) of this section is suspended until 60 days after the Secretary of Transportation denies the claim. The claim is deemed to be administratively denied if the Secretary does not act on the claim not later than 6 months after filing, unless the Secretary makes a different agreement with the claimant when there is good cause for an agreement.

(d) INTERPLEADER.—(1) If the Secretary admits the Government owes money under an insurance claim under this chapter and there is a dispute about the person that is entitled to payment, the Government may bring a civil action of interpleader in a district court of the United States against the persons that may be entitled to payment. The action may be brought in the judicial district for the District of Columbia or in the judicial district in which any party resides.

(2) The district court may order a party not residing or found in the judicial district in which the action is brought to appear in a civil action under this subsection. The order shall be served in a reasonable manner decided by the district court. If the court decides an unknown person might assert a claim under the insurance that is the subject of the action, the court may order service on that person by publication in the Federal Register.

(3) Judgment in a civil action under this subsection discharges the Government from further liability to the parties to the action and to all other persons served by publication under paragraph (2) of this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1172.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44309(a)	49 App.:1540 (1st sentence less 19th–70th words, 3d sentence).	Aug. 23, 1958, Pub. L. 85–726, §1310, 72 Stat. 805.
44309(b)(1) ..	49 App.:1540 (1st sentence 19th–70th words, 2d sentence).	
44309(b)(2) ..	49 App.:1540 (4th sentence).	
44309(c)	49 App.:1540 (last sentence).	
44309(d)	49 App.:1540 (5th–8th sentences).	

In subsection (a), the words ''A person may bring'' are substituted for ''may be maintained'' for clarity. The words ''a civil action'' are substituted for ''suit'' because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''A civil action . . . (except the action authorized by this subsection) may not be brought'' are substituted for ''and this remedy shall be exclusive of any other action'', and the words ''involving the'' are substituted for ''by reason of'', for clarity. The words ''carrying out this chapter'' are substituted for ''employed or retained under this subchapter'', and the words ''in an action'' are substituted for ''for suits in the district courts'', for consistency. The words ''applies to'' are substituted for ''shall otherwise be the same as that provided for'' to eliminate unnecessary words. The words ''an action under this subsection'' are substituted for ''such suits'' for consistency.

In subsection (b)(1), the words ''A civil action under subsection (a) of this section may be brought'' are added for clarity. The words ''the plaintiff or the agent of the plaintiff resides'' are substituted for ''the claimant or his agent resides'' for consistency in the revised title. The words ''if the plaintiff resides in the United States'' are added for clarity. The words ''notwithstanding the amount of the claim'' are omitted as obsolete because jurisdiction under 28:1331 no longer depends on the amount of the claim. The words ''and any provision of existing law as to the jurisdiction of United States district courts'' are omitted as obsolete.

In subsection (b)(2), the words ''interested person'' are substituted for ''All persons having or claiming or who might have an interest in such insurance'' to eliminate unnecessary words. The word ''either'' is omitted as surplus. The words ''to a civil action brought under subsection (a) of this section'' are added for clarity.

In subsection (c), the words ''during which, under section 2401 of title 28, a civil action must be brought under subsection (a) of this section'' are substituted for ''within which suits may be commenced contained in section 2401 of title 28 providing for bringing of suits against the United States'' for clarity. The words ''from such time of filing'' are omitted as surplus. The words ''60 days after the Secretary of Transportation denies the claim'' are substituted for ''the claim shall have been administratively denied by the Secretary and for sixty days thereafter'' for clarity.

In subsection (d)(1), the words ''a civil action of interpleader'' are substituted for ''an action in the nature of a bill of interpleader'' because of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''persons that may be entitled to payment'' are substituted for ''such parties'' for clarity.

In subsection (d)(2), the words ''in which the action is brought'' are added for clarity. The words ''The order shall be'' are added because of the restatement. The words ''the court may order service on that person'' are substituted for ''it may direct service upon such persons unknown'' as being more precise.

In subsection (d)(3), the words ''in a civil action under this subsection'' are substituted for ''in any such suit'' for clarity.

§ 44310. Ending effective date

The authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter is not effective after December 31, 1998.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1173; Pub. L. 105–85, div. A, title X, §1088(a), Nov. 18, 1997, 111 Stat. 1921; Pub. L. 105–137, §5(a), Dec. 2, 1997, 111 Stat. 2641.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44310	49 App.:1542.	Aug. 23, 1958, Pub. L. 85–726, § 1312, 72 Stat. 806; July 20, 1961, Pub. L. 87–89, 75 Stat. 210; June 13, 1966, Pub. L. 89–447, 80 Stat. 199; Sept. 8, 1970, Pub. L. 91–399, 84 Stat. 837; Aug. 9, 1975, Pub. L. 94–90, § 2, 89 Stat. 439; July 31, 1976, Pub. L. 94–374, 90 Stat. 1065; Nov. 9, 1977, Pub. L. 95–163, § 6, 91 Stat. 1280; Oct. 14, 1982, Pub. L. 97–309, § 3, 96 Stat. 1453; Oct. 30, 1987, Pub. L. 100–148, 101 Stat. 878; Oct. 31, 1992, Pub. L. 102–581, § 402, 106 Stat. 4897.

The words ''is not effective after'' are substituted for ''shall expire at the termination of'' for clarity and consistency in the revised title.

AMENDMENTS

1997—Pub. L. 105–137 substituted ''December 31, 1998'' for ''September 30, 2002''.

Pub. L. 105–85 substituted ''September 30, 2002'' for ''September 30, 1997''.

EFFECTIVE DATE OF 1997 AMENDMENTS

Pub. L. 105–137, § 5(b), Dec. 2, 1997, 111 Stat. 2641, provided that: ''The amendment made by subsection (a) [amending this section] takes effect on October 1, 1997.''

Pub. L. 105–85, div. A, title X, § 1088(b), Nov. 18, 1997, 111 Stat. 1921, provided that: ''This section [amending this section] shall take effect as of September 30, 1997.''

CONTINUATION OF AVIATION INSURANCE LAWS

Pub. L. 102–581, title IV, § 404, Oct. 31, 1992, 106 Stat. 4898, provided that: ''Notwithstanding any other provision of law, the provisions of title XIII of the Federal Aviation Act of 1958 [now this chapter] and all insurance policies issued by the Secretary of Transportation under such title, as in effect on September 30, 1992, shall be treated as having continued in effect until the date of the enactment of this Act [Oct. 31, 1992].''

CHAPTER 445—FACILITIES, PERSONNEL, AND RESEARCH

Sec.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 46316 of this title.

§ 44501. Plans and policy

(a) LONG RANGE PLANS AND POLICY REQUIREMENTS.—The Administrator of the Federal Aviation Administration shall make long range plans and policy for the orderly development and use of the navigable airspace, and the orderly development and location of air navigation facilities, that will best meet the needs of, and serve the interests of, civil aeronautics and the national defense, except for needs of the armed forces that are peculiar to air warfare and primarily of military concern.

(b) AIRWAY CAPITAL INVESTMENT PLAN.—The Administrator of the Federal Aviation Administration shall review, revise, and publish a national airways system plan, known as the Airway Capital Investment Plan, before the beginning of each fiscal year. The plan shall set forth—

(1) for a 10-year period, the research, engineering, and development programs and the facilities and equipment that the Administrator considers necessary for a system of airways, air traffic services, and navigation aids that will—

(A) meet the forecasted needs of civil aeronautics;

(B) meet the requirements that the Secretary of Defense establishes for the support of the national defense; and

(C) provide the highest degree of safety in air commerce;

(2) for the first and 2d years of the plan, detailed annual estimates of—

(A) the number, type, location, and cost of acquiring, operating, and maintaining required facilities and services;

(B) the cost of research, engineering, and development required to improve safety, system capacity, and efficiency; and

(C) personnel levels required for the activities described in subclauses (A) and (B) of this clause;

(3) for the 3d, 4th, and 5th years of the plan, estimates of the total cost of each major program for the 3-year period, and additional major research programs, acquisition of systems and facilities, and changes in personnel levels that may be required to meet long range objectives and that may have significant impact on future funding requirements; and

(4) a 10-year investment plan that considers long range objectives that the Administrator considers necessary to—

(A) ensure that safety is given the highest priority in providing for a safe and efficient airway system; and

(B) meet the current and projected growth of aviation and the requirements of interstate commerce, the United States Postal Service, and the national defense.

(c) NATIONAL AVIATION RESEARCH PLAN.—(1) The Administrator of the Federal Aviation Administration shall prepare and publish annually a national aviation research plan and submit the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives. The plan shall be submitted not later than the date of submission of the President's budget to Congress.

(2)(A) The plan shall describe, for a 5-year period, the research, engineering, and development that the Administrator of the Federal Aviation Administration considers necessary—

(i) to ensure the continued capacity, safety, and efficiency of aviation in the United States, considering emerging technologies and forecasted needs of civil aeronautics; and

(ii) to provide the highest degree of safety in air travel.

(B) The plan shall—

(i) provide estimates by year of the schedule, cost, and work force levels for each active and planned major research and development project under sections 40119, 44504, 44505, 44507, 44509, 44511–44513, and 44912 of this title, including activities carried out under cooperative agreements with other Federal departments and agencies;

(ii) specify the goals and the priorities for allocation of resources among the major categories of research and development activities, including the rationale for the priorities identified;

(iii) identify the allocation of resources among long-term research, near-term research, and development activities; and

(iv) highlight the research and development activities that address specific recommendations of the research advisory committee established under section 44508 of this title, and document the recommendations of the committee that are not accepted, specifying the reasons for nonacceptance.

(3) Subject to section 40119(b) of this title and regulations prescribed under section 40119(b), the Administrator of the Federal Aviation Administration shall submit to the committees named in paragraph (1) of this subsection an annual report on the accomplishments of the research completed during the prior fiscal year, including a description of the dissemination to the private sector of research results and a description of any new technologies developed. The report shall be submitted with the plan required under paragraph (1) and be organized to allow comparison with the plan in effect for the prior fiscal year.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1173; Pub. L. 104–264, title XI, § 1105, Oct. 9, 1996, 110 Stat. 3279; Pub. L. 104–287, § 5(74), Oct. 11, 1996, 110 Stat. 3396.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44501(a)	49 App.:1353(a).	Aug. 23, 1958, Pub. L. 85–726, § 312(a), 72 Stat. 752.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44501(b)	49 App.:2203(b).	Sept. 3, 1982, Pub. L. 97–248, § 504(b), 96 Stat. 675; Nov. 5, 1990, Pub. L. 101–508, § 9105(a), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, § 114, 106 Stat. 4881.
44501(c)	49 App.:1353(d).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(d); added Nov. 3, 1988, Pub. L. 100–591, § 4(a), 102 Stat. 3011.

In subsection (a), the word ''Administrator'' in section 312(a) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 752) is retained on authority of 49:106(g). The words ''air navigation facilities'' are substituted for ''landing areas, Federal airways, radar installations and all other aids and facilities for air navigation'' because of the definition of ''air navigation facility'' in section 40102(a) of the revised title. The words ''the armed forces'' are substituted for ''military agencies'' because of 10:101.

In subsection (b), before clause (1), the words ''the requirements of'' are omitted as surplus. The text of 49 App.:2203(b) (1st sentence) is omitted as executed. The words ''thereafter'' and ''For fiscal year 1991 and thereafter'' are omitted as obsolete. In clauses (2)(C) and (3), the word ''personnel'' is substituted for ''manpower'' for consistency in the revised title. In clause (2)(C), the word ''all'' is omitted as surplus.

In subsection (c), before clause (1), the word ''completed'' is omitted as surplus.

In subsection (d)(1), the words ''review, revise'' are omitted as surplus. The word ''annually'' is substituted for ''for fiscal year 1990, and for each fiscal year thereafter'' to eliminate obsolete language.

In subsection (d)(2)(B), before clause (i), the words ''an appropriation'' are substituted for ''funding'', and in clause (ii), the word ''appropriations'' is substituted for ''funding'', for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (d)(3), the words ''beginning with the date of transmission of the first aviation research plan as required by paragraph (1)'' are omitted as obsolete.

AMENDMENTS

1996—Subsec. (c)(1). Pub. L. 104–287 substituted ''Committee on Science'' for ''Committee on Science, Space, and Technology''.

Subsec. (c)(2)(A). Pub. L. 104–264, § 1105(1), substituted ''5-year period'' for ''15-year period''.

Subsec. (c)(2)(B). Pub. L. 104–264, § 1105(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) set out the requirements for research plans including specific requirements for the first two years of the plan, for the 3rd, 4th, and 5th years, and for the 6th and subsequent years.

Subsec. (c)(3). Pub. L. 104–264, § 1105(3), inserted '', including a description of the dissemination to the private sector of research results and a description of any new technologies developed'' after ''during the prior fiscal year''.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40119, 44938, 48101 of this title.

§ 44502. General facilities and personnel authority

(a) GENERAL AUTHORITY.—(1) The Administrator of the Federal Aviation Administration may—

(A) acquire, establish, improve, operate, and maintain air navigation facilities; and

(B) provide facilities and personnel to regulate and protect air traffic.

(2) The cost of site preparation work associated with acquiring, establishing, or improving an air navigation facility under paragraph (1)(A) of this subsection shall be charged to amounts available for that purpose appropriated under section 48101(a) of this title. The Secretary of Transportation may make an agreement with an airport owner or sponsor (as defined in section

47102 of this title) so that the owner or sponsor will provide the work and be paid or reimbursed by the Secretary from the appropriated amounts.

(3) The Secretary of Transportation may authorize a department, agency, or instrumentality of the United States Government to carry out any duty or power under this subsection with the consent of the head of the department, agency, or instrumentality.

(4) PURCHASE OF INSTRUMENT LANDING SYSTEM.—

(A) ESTABLISHMENT OF PROGRAM.—The Secretary shall purchase precision approach instrument landing system equipment for installation at airports on an expedited basis.

(B) AUTHORIZATION.—No less than $30,000,000 of the amounts appropriated under section 48101(a) for each of fiscal years 1995 and 1996 shall be used for the purpose of carrying out this paragraph, including acquisition, site preparation work, installation, and related expenditures.

(b) CERTIFICATION OF NECESSITY.—Except for Government money expended under this part or for a military purpose, Government money may be expended to acquire, establish, construct, operate, repair, alter, or maintain an air navigation facility only if the Administrator of the Federal Aviation Administration certifies in writing that the facility is reasonably necessary for use in air commerce or for the national defense. An interested person may apply for a certificate for a facility to be acquired, established, constructed, operated, repaired, altered, or maintained by or for the person.

(c) ENSURING CONFORMITY WITH PLANS AND POLICIES.—(1) To ensure conformity with plans and policies for, and allocation of, airspace by the Administrator of the Federal Aviation Administration under section 40103(b)(1) of this title, a military airport, military landing area, or missile or rocket site may be acquired, established, or constructed, or a runway may be altered substantially, only if the Administrator of the Federal Aviation Administration is given reasonable prior notice so that the Administrator of the Federal Aviation Administration may advise the appropriate committees of Congress and interested departments, agencies, and instrumentalities of the Government on the effect of the acquisition, establishment, construction, or alteration on the use of airspace by aircraft. A disagreement between the Administrator of the Federal Aviation Administration and the Secretary of Defense or the Administrator of the National Aeronautics and Space Administration may be appealed to the President for a final decision.

(2) To ensure conformity, an airport or landing area not involving the expenditure of Government money may be established or constructed, or a runway may be altered substantially, only if the Administrator of the Federal Aviation Administration is given reasonable prior notice so that the Administrator may provide advice on the effects of the establishment, construction, or alteration on the use of airspace by aircraft.

(d) PUBLIC USE AND EMERGENCY ASSISTANCE.—(1) The head of a department, agency, or instrumentality of the Government having jurisdiction over an air navigation facility owned or operated by the Government may provide, under regulations the head of the department, agency, or instrumentality prescribes, for public use of the facility.

(2) The head of a department, agency, or instrumentality of the Government having jurisdiction over an airport or emergency landing field owned or operated by the Government may provide, under regulations the head of the department, agency, or instrumentality prescribes, for assistance, and the sale of fuel, oil, equipment, and supplies, to an aircraft, but only when necessary, because of an emergency, to allow the aircraft to continue to the nearest airport operated by private enterprise. The head of the department, agency, or instrumentality shall provide for the assistance and sale at the prevailing local fair market value as determined by the head of the department, agency, or instrumentality. An amount that the head decides is equal to the cost of the assistance provided and the fuel, oil, equipment, and supplies sold shall be credited to the appropriation from which the cost was paid. The balance shall be credited to miscellaneous receipts.

(e) TRANSFERS OF INSTRUMENT LANDING SYSTEMS.—An airport may transfer, without consideration, to the Administrator of the Federal Aviation Administration an instrument landing system (and associated approach lighting equipment and runway visual range equipment) that conforms to performance specifications of the Administrator if a Government airport aid program, airport development aid program, or airport improvement project grant was used to assist in purchasing the system. The Administrator shall accept the system and operate and maintain it under criteria of the Administrator.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1175; Pub. L. 103–305, title I, § 120(a), Aug. 23, 1994, 108 Stat. 1581; Pub. L. 103–429, § 6(54), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–287, § 5(75), Oct. 11, 1996, 110 Stat. 3396.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44502(a)(1) ..	49 App.:1348(b) (1st sentence less cl. (3)).	Aug. 23, 1958, Pub. L. 85–726, § 307(b) (1st sentence less cl. (3), 2d sentence), 72 Stat. 750; Jan. 12, 1983, Pub. L. 97–449, § 4(c), 96 Stat. 2442.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44502(a)(2) ..	49 App.:2205(a)(3).	Sept. 3, 1982, Pub. L. 97–248, § 506(a)(3), 96 Stat. 677; Dec. 30, 1987, Pub. L. 100–223, § 105(a)(1), (g)(1), 101 Stat. 1489, 1494.
44502(a)(3) ..	49 App.:1348(b) (2d sentence).	
44502(b)	49 App.:1349(a) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85–726, §§ 308(a) (1st, 2d sentences), (b), 309, 1107, 72 Stat. 750, 751, 798.
	49 App.:1655(c)(1).	
44502(c)(1) ..	49 App.:1349(b).	
	49 App.:1655(c)(1).	
44502(c)(2) ..	49 App.:1350.	
	49 App.:1655(c)(1).	
44502(d)	49 App.:1507.	
44502(e)	49 App.:1743.	Aug. 11, 1959, Pub. L. 86–154, 73 Stat. 333.
44502(f)	49 App.:2205 (notes).	Nov. 21, 1989, Pub. L. 101–164, § 331, 103 Stat. 1097.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
		Nov. 5, 1990, Pub. L. 101–516, §324, 104 Stat. 2182. Oct. 28, 1991, Pub. L. 102–143, §324, 105 Stat. 943. Oct. 6, 1992, Pub. L. 102–388, §324, 106 Stat. 1547.

In this section, the words ''department, agency, or instrumentality of the United States Government'' are substituted for ''Federal department or agency'' in 49 App.:1348(b), ''agencies'' in 49 App.:1349(b), and ''department or other agency'' and ''Government department or other agency'' in 49 App.:1507 for consistency in the revised title and with other titles of the United States Code.

In subsections (a)(1), (b), and (c), the word ''Administrator'' in sections 303(c) (1st sentence), 307(b), 308(a) (1st and 2d sentences) and (b), and 309 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 750, 751) is retained on authority of 49:106(g).

In subsection (a)(1), before clause (A), the words ''within the limits of available appropriations made by the Congress'' are omitted as surplus. In clause (A), the words ''wherever necessary'' are omitted as surplus. In clause (B), the word ''necessary'' is omitted as surplus.

In subsection (a)(2), the words ''by the Secretary'' and ''to the Secretary'' are omitted as surplus. The last sentence is substituted for 49 App.:2205(a)(3) (last sentence) to eliminate unnecessary words.

In subsection (a)(3), the words ''subject to such regulations, supervision, and review as he may prescribe'' are omitted because of 49:322(a). The words ''from time to time make such provision as he shall deem appropriate'' are omitted as surplus. The words ''duty or power'' are substituted for ''function'' for consistency in the revised title and with other titles of the Code. The words ''the head of'' are added for clarity and consistency.

In subsection (b), the words ''(whether or not in cooperation with State or other local governmental agencies)'' and ''thereon'' are omitted as surplus. The words ''landing area'' are omitted as being included in the definition of ''air navigation facility'' in section 40102(a) of the revised title. The words ''recommendation and'' are omitted as surplus. The words ''under regulations prescribed by him'' are omitted because of 49:322(a). The word ''proposed'' is omitted as surplus. The word ''acquired'' is added for consistency in this subsection.

In subsection (c)(1), the words ''In order'', ''layout'', and ''In case of . . . the matter'' are omitted as surplus. The words ''Secretary of Defense'' are substituted for ''Department of Defense'' because of 10:133(a). The words ''the Administrator of'' are added because of 42:2472(a).

In subsection (c)(2), the word ''layout'' is omitted as surplus. The words ''pursuant to regulations prescribed by him'' are omitted because of 49:322(a). The words ''the establishment, building, or alteration'' are substituted for ''such construction'' for clarity and consistency in this section.

In subsection (d)(1), the words ''under such conditions and to such extent as . . . deems advisable and'' are omitted as surplus. The word ''provide'' is substituted for ''be made available'', and the words ''of the facility'' are added, for clarity.

In subsection (d)(2), the words ''All amounts received under this subsection shall be covered into the Treasury'' are omitted because of 31:3302(b). The words ''services, shelter . . . other'' and ''if any'' are omitted as surplus.

In subsection (e), the words ''or compact'' are omitted as surplus. The words ''or States'' are omitted because of 1:1. The text of 49 App.:1743 (last sentence) is omitted as surplus.

In subsection (f), the words ''Notwithstanding any other provision of law'' and ''thereafter'' are omitted as surplus.

PUB. L. 103–429

This amends 49:44502(b) to clarify the restatement of 49 App.:1349(a) (1st, 2d sentences) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1175).

PUB. L. 104–287, §5(75)(A)

This amends 49:44502(c)(1) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1175).

PUB. L. 104–287, §5(75)(B)

This strikes 49:44502(e) and redesignates 49:44502(f) as 49:44502(e) because of the restatement of former 49:44502(e) as 49:40121.

AMENDMENTS

1996—Subsec. (c)(1). Pub. L. 104–287, §5(75)(A), substituted ''To ensure'' for ''To ensure that''.

Subsecs. (e), (f). Pub. L. 104–287, §5(75)(B), redesignated subsec. (f) as (e) and struck out former subsec. (e) which read as follows:

''(e) CONSENT OF CONGRESS.—Congress consents to a State making an agreement, not in conflict with a law of the United States, with another State to develop or operate an airport facility.''

1994—Subsec. (a)(4). Pub. L. 103–305 added par. (4).

Subsec. (b). Pub. L. 103–429 inserted ''Government'' before ''money may be expended''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

TRANSFER BY AIRPORTS OF INSTRUMENT LANDING SYSTEMS AND ASSOCIATED EQUIPMENT TO FEDERAL AVIATION ADMINISTRATION

Pub. L. 105–66, title III, §314, Oct. 27, 1997, 111 Stat. 1443, provided that: ''Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration (FAA) instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to FAA design and performance specifications, the purchase of which was assisted by a Federal airport-aid program, airport development aid program or airport improvement program grant. The FAA shall accept such equipment, which shall thereafter be operated and maintained by the FAA in accordance with agency criteria.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104–205, title III, §314, Sept. 30, 1996, 110 Stat. 2971.

Pub. L. 104–50, title III, §317, Nov. 15, 1995, 109 Stat. 455.

Pub. L. 103–331, title III, §317, Sept. 30, 1994, 108 Stat. 2491, repealed by Pub. L. 104–287, §7(4), Oct. 11, 1996, 110 Stat. 3400.

COST SAVINGS ASSOCIATED WITH PURCHASE

Section 120(b) of Pub. L. 103–305 provided that: ''Notwithstanding other provisions of law or regulations to the contrary, the Administrator [of the Federal Aviation Administration] shall establish, within 120 days after the date of the enactment of this Act [Aug. 23, 1994], a process through which airport sponsors may take advantage of cost savings associated with the purchase and installation of instrument landing systems, along with associated equipment, under existing or future Federal Aviation Administration contracts. The process established by the Administrator may provide for the direct reimbursement (including administrative costs) of the Administrator by an airport sponsor using grants funds under subchapter I of chapter 471 of subtitle VII of title 49, United States Code, relating to airport improvement, for the ordering of such equipment and installation or for the direct ordering of such

equipment and installation by an airport sponsor, using such grant funds, from the suppliers with which the Administrator has contracted.''

GRANDFATHER PROVISION FOR FAA DEMONSTRATION PROJECT

Pub. L. 103–260, title IV, § 401, May 26, 1994, 108 Stat. 702, provided that:

''(a) IN GENERAL.—Notwithstanding the termination of the personnel demonstration project for certain Federal Aviation Administration employees on June 17, 1994, pursuant to section 4703 of title 5, United States Code, the Federal Aviation Administration, subject to subsection (d), shall continue to pay quarterly retention allowance payments in accordance with subsection (b) to those employees who are entitled to quarterly retention allowance payments under the demonstration project as of June 16, 1994.

''(b) COMPUTATION RULES.—

''(1) IN GENERAL.—The amount of each quarterly retention allowance payment to which an employee is entitled under subsection (a) shall be the amount of the last quarterly retention allowance payment paid to such employee under the personnel demonstration project prior to June 17, 1994, reduced by that portion of the amount of any increase in the employee's annual rate of basic pay subsequent to June 17, 1994, from any source, which is allocable to the quarter for which the allowance is to be paid (or, if applicable, to that portion of the quarter for which the allowance is to be paid). For purposes of the preceding sentence, the increase in an employee's annual rate of basic pay includes—

''(A) any increase under section 5303 of title 5, United States Code;

''(B) any increase in locality-based comparability payments under section 5304 of such title 5 (except if, or to the extent that, such increase is offset by a reduction of an interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5304 note));

''(C) any establishment or increase in a special rate of pay under section 5305 of such title 5;

''(D) any increase in basic pay pursuant to a promotion under section 5334 of such title 5;

''(E) any periodic step-increase under section 5335 of such title 5;

''(F) any additional step-increase under section 5336 of such title 5; and

''(G) any other increase in annual rate of basic pay under any other provision of law.

''(2) SECTION RULE.—In the case of an employee on leave without pay or other similar status for any part of the quarter prior to June 17, 1994, based on which the amount of the allowance payments for such employee under subsection (a) are computed, the 'amount of the last quarterly retention allowance payment paid to such employee under the personnel demonstration project prior to June 17, 1994' shall, for purposes of paragraph (1), be deemed to be the amount of the allowance which would have been payable to such employee for such quarter under such project had such employee been in pay status throughout such quarter.

''(c) TERMINATION.—An employee's entitlement to quarterly retention allowance payments under this section shall cease when—

''(1) the amount of such allowance is reduced to zero under subsection (b), or

''(2) the employee separates or moves to a position in which the employee would not, prior to June 17, 1994, have been entitled to receive an allowance under the demonstration project,

whichever is earlier.

''(d) SPECIAL PAYMENT RULE.—The Administrator of the Federal Aviation Administration may make payment for the costs incurred under the program established by subsection (a) for the period between June 18, 1994, and September 30, 1994, following the end of the first full pay period that begins on or after October 1, 1994, subject to appropriations made available in fiscal year 1995.

''(e) STUDY OF RECRUITMENT AND RETENTION INCENTIVES.—The Administrator of the Federal Aviation Administration shall conduct a study of impediments that may exist to achieving appropriate air traffic controller staffing levels at hard-to-staff facilities. In conducting such study, the Administrator shall identify and evaluate the extent to which special incentives, of a financial or non-financial nature, could be useful in recruiting or retaining air traffic controllers at such facilities. The Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives not later than 180 days after the date of enactment of this Act [May 26, 1994] a report on (1) the results of such study, (2) planned administrative actions, and (3) any recommended legislation.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40119, 46301, 48101, 48104, 50101, 50102, 50105 of this title.

§ 44503. Reducing nonessential expenditures

The Secretary of Transportation shall attempt to reduce the capital, operating, maintenance, and administrative costs of the national airport and airway system to the maximum extent practicable consistent with the highest degree of aviation safety. At least annually, the Secretary shall consult with and consider the recommendations of users of the system on ways to reduce nonessential expenditures of the United States Government for aviation. The Secretary shall give particular attention to a recommendation that may reduce, with no adverse effect on safety, future personnel requirements and costs to the Government required to be recovered from user charges.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1176.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44503	49 App.:1704.	July 12, 1976, Pub. L. 94–353, § 25, 90 Stat. 885.

The words ''in accordance with this section'' and ''due'' are omitted as surplus. The word ''personnel'' is substituted for ''manpower'' for consistency in the revised title.

§ 44504. Improved aircraft, aircraft engines, propellers, and appliances

(a) DEVELOPMENTAL WORK AND SERVICE TESTING.—The Administrator of the Federal Aviation Administration may conduct or supervise developmental work and service testing to improve aircraft, aircraft engines, propellers, and appliances.

(b) RESEARCH.—The Administrator shall conduct or supervise research—

(1) to develop technologies and analyze information to predict the effects of aircraft design, maintenance, testing, wear, and fatigue on the life of aircraft and air safety;

(2) to develop methods of analyzing and improving aircraft maintenance technology and practices, including nondestructive evaluation of aircraft structures;

(3) to assess the fire and smoke resistance of aircraft material;

(4) to develop improved fire and smoke resistant material for aircraft interiors;

(5) to develop and improve fire and smoke containment systems for inflight aircraft fires;

(6) to develop advanced aircraft fuels with low flammability and technologies that will contain aircraft fuels to minimize post-crash fire hazards; and

(7) to develop technologies and methods to assess the risk of and prevent defects, failures, and malfunctions of products, parts, processes, and articles manufactured for use in aircraft, aircraft engines, propellers, and appliances that could result in a catastrophic failure of an aircraft.

(c) AUTHORITY TO BUY ITEMS OFFERING SPECIAL ADVANTAGES.—In carrying out this section, the Administrator, by negotiation or otherwise, may buy or exchange experimental aircraft, aircraft engines, propellers, and appliances that the Administrator decides may offer special advantages to aeronautics.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1176.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44504(a)	49 App.:1353(b) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §312(b) (1st, last sentences), 72 Stat. 752.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44504(b)	49 App.:1353(b) (2d sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §312(b) (2d sentence); added Nov. 3, 1988, Pub. L. 100–591, §2, 102 Stat. 3011; Nov. 5, 1990, Pub. L. 101–508, §9208(a), 104 Stat. 1388–376.
44504(c)	49 App.:1353(b) (last sentence) 49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in section 312(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 752) is retained on authority of 49:106(g).

In subsection (a), the words ''to improve'' are substituted for ''such . . . as tends to the creation of improved'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40119, 44501, 44508, 48102 of this title.

§ 44505. Systems, procedures, facilities, and devices

(a) GENERAL REQUIREMENTS.—(1) The Administrator of the Federal Aviation Administration shall—

(A) develop, alter, test, and evaluate systems, procedures, facilities, and devices, and define their performance characteristics, to meet the needs for safe and efficient navigation and traffic control of civil and military aviation, except for needs of the armed forces that are peculiar to air warfare and primarily of military concern; and

(B) select systems, procedures, facilities, and devices that will best serve those needs and promote maximum coordination of air traffic control and air defense systems.

(2) The Administrator may make contracts to carry out this subsection without regard to section 3324(a) and (b) of title 31.

(3) When a substantial question exists under paragraph (1) of this subsection about whether a matter is of primary concern to the armed forces, the Administrator shall decide whether the Administrator or the Secretary of the appropriate military department has responsibility. The Administrator shall be given technical information related to each research and development project of the armed forces that potentially applies to, or potentially conflicts with, the common system to ensure that potential application to the common system is considered properly and that potential conflicts with the system are eliminated.

(b) RESEARCH ON HUMAN FACTORS AND SIMULATION MODELS.—The Administrator shall conduct or supervise research—

(1) to develop a better understanding of the relationship between human factors and aviation accidents and between human factors and air safety;

(2) to enhance air traffic controller, mechanic, and flight crew performance;

(3) to develop a human-factor analysis of the hazards associated with new technologies to be used by air traffic controllers, mechanics, and flight crews;

(4) to identify innovative and effective corrective measures for human errors that adversely affect air safety; and

(5) to develop dynamic simulation models of the air traffic control system and airport design and operating procedures that will provide analytical technology—

(A) to predict airport and air traffic control safety and capacity problems;

(B) to evaluate planned research projects; and

(C) to test proposed revisions in airport and air traffic control operations programs.

(c) RESEARCH ON DEVELOPING AND MAINTAINING A SAFE AND EFFICIENT SYSTEM.—The Administrator shall conduct or supervise research on—

(1) airspace and airport planning and design;

(2) airport capacity enhancement techniques;

(3) human performance in the air transportation environment;

(4) aviation safety and security;

(5) the supply of trained air transportation personnel, including pilots and mechanics; and

(6) other aviation issues related to developing and maintaining a safe and efficient air transportation system.

(d) COOPERATIVE AGREEMENTS.—The Administrator may enter into cooperative agreements on a cost-shared basis with Federal and non-Federal entities that the Administrator may select in order to conduct, encourage, and promote aviation research, engineering, and development, including the development of prototypes and demonstration models.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1177; Pub. L. 103–305, title III, §307, Aug. 23, 1994, 108 Stat. 1593.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44505(a)(1) ..	49 App.:1353(c) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §312(c) (1st, 5th–last sentences), 72 Stat. 752.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44505(a)(2) ..	49 App.:1353(c) (5th sentence).	
	49 App.:1655(c)(1).	
44505(a)(3) ..	49 App.:1353(c) (6th, last sentences).	
	49 App.:1655(c)(1).	
44505(b)	49 App.:1353(c) (2d, 3d sentences).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §312(c) (2d, 3d sentences); added Nov. 3, 1988, Pub. L. 100–591, §3, 102 Stat. 3011.
44505(c)	49 App.:1353(c) (4th sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §312(c) (4th sentence); added Nov. 5, 1990, Pub. L. 101–508, §9209(c), 104 Stat. 1388–378.

In this section, the word ''Administrator'' in section 312(c) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 752) is retained on authority of 49:106(g).

In subsection (a)(1) and (3), the words ''the armed forces'' are substituted for ''military agencies'' and ''the military'' because of the definition of ''armed forces'' in 10:101.

In subsection (a)(3), the words ''military department'' are substituted for ''military agency'' because of the definition of ''military department'' in 10:101. The words ''the needs of'' and ''to the maximum extent necessary'' are omitted as surplus.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–305 added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40119, 44501, 44508, 48102 of this title.

§ 44506. Air traffic controllers

(a) RESEARCH ON EFFECT OF AUTOMATION ON PERFORMANCE.—To develop the means necessary to establish appropriate selection criteria and training methodologies for the next generation of air traffic controllers, the Administrator of the Federal Aviation Administration shall conduct research to study the effect of automation on the performance of the next generation of air traffic controllers and the air traffic control system. The research shall include investigating—

(1) methods for improving and accelerating future air traffic controller training through the application of advanced training techniques, including the use of simulation technology;

(2) the role of automation in the air traffic control system and its physical and psychological effects on air traffic controllers;

(3) the attributes and aptitudes needed to function well in a highly automated air traffic control system and the development of appropriate testing methods for identifying individuals with those attributes and aptitudes;

(4) innovative methods for training potential air traffic controllers to enhance the benefits of automation and maximize the effectiveness of the air traffic control system; and

(5) new technologies and procedures for exploiting automated communication systems, including Mode S Transponders, to improve information transfers between air traffic controllers and aircraft pilots.

(b) RESEARCH ON HUMAN FACTOR ASPECTS OF AUTOMATION.—The Administrators of the Federal Aviation Administration and National Aeronautics and Space Administration may make an agreement for the use of the National Aeronautics and Space Administration's unique human factor facilities and expertise in conducting research activities to study the human factor aspects of the highly automated environment for the next generation of air traffic controllers. The research activities shall include investigating—

(1) human perceptual capabilities and the effect of computer-aided decision making on the workload and performance of air traffic controllers;

(2) information management techniques for advanced air traffic control display systems; and

(3) air traffic controller workload and performance measures, including the development of predictive models.

(c) COLLEGIATE TRAINING INITIATIVE.—(1) The Administrator of the Federal Aviation Administration may maintain the Collegiate Training Initiative program by making new agreements and continuing existing agreements with institutions of higher education (as defined by the Administrator) under which the institutions prepare students for the position of air traffic controller with the Department of Transportation (as defined in section 2109 of title 5). The Administrator may establish standards for the entry of institutions into the program and for their continued participation.

(2)(A) The Administrator of the Federal Aviation Administration may appoint an individual who has successfully completed a course of training in a program described in paragraph (1) of this subsection to the position of air traffic controller noncompetitively in the excepted service (as defined in section 2103 of title 5). An individual appointed under this paragraph serves at the pleasure of the Administrator, subject to section 7511 of title 5. However, an appointment under this paragraph may be converted from one in the excepted service to a career conditional or career appointment in the competitive civil service (as defined in section 2102 of title 5) when the individual achieves full performance level air traffic controller status, as decided by the Administrator.

(B) The authority under subparagraph (A) of this paragraph to make appointments in the excepted service expires on October 6, 1997, except that the Administrator of the Federal Aviation Administration may extend the authority for one or more successive one-year periods.

(d) STAFFING REPORT.—The Administrator of the Federal Aviation Administration shall submit annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(1) the staffing standards used to determine the number of air traffic controllers needed to operate the air traffic control system of the United States;

(2) a 3-year projection of the number of controllers needed to be employed to operate the system to meet the standards; and

(3) a detailed plan for employing the controllers, including projected budget requests.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1178; Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44506(a), (b)	49 App.:1353 (note).	Nov. 3, 1988, Pub. L. 100–591, § 8(a)–(c), 102 Stat. 3015; Nov. 17, 1988, Pub. L. 100–685, §§ 601–603, 102 Stat. 4102.
44506(c)	49 App.:1348a.	Oct. 6, 1992, Pub. L. 102–388, § 362, 106 Stat. 1560.
44506(d)	49 App.:1348 (note).	Oct. 31, 1992, Pub. L. 102–581, § 120, 106 Stat. 4884.

In subsections (a) and (b), the text of section 8(a) and (b)(3) of the Aviation Safety Research Act of 1988 (Public Law 100–581, 102 Stat. 3015, 3016) and sections 601 and 602(3) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (Public Law 100–685, 102 Stat. 4102, 4103) is omitted as executed.

In subsection (c), the words ''institutions of higher education'' are substituted for ''post-secondary educational institutions'' for consistency in the revised title.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 48102 of this title.

§ 44507. Civil aeromedical research

The Civil Aeromedical Institute established by section 106(j) of this title may—

(1) conduct civil aeromedical research, including research related to—

(A) the protection and survival of aircraft occupants;

(B) medical accident investigation and airman medical certification;

(C) toxicology and the effects of drugs on human performance;

(D) the impact of disease and disability on human performance;

(E) vision and its relationship to human performance and equipment design;

(F) human factors of flight crews, air traffic controllers, mechanics, inspectors, airway facility technicians, and other individuals involved in operating and maintaining aircraft and air traffic control equipment; and

(G) agency work force optimization, including training, equipment design, reduction of errors, and identification of candidate tasks for automation;

(2) make comments to the Administrator of the Federal Aviation Administration on human factors aspects of proposed air safety regulations;

(3) make comments to the Administrator on human factors aspects of proposed training programs, equipment requirements, standards, and procedures for aviation personnel;

(4) advise, assist, and represent the Federal Aviation Administration in the human factors aspects of joint projects between the Administration and the National Aeronautics and Space Administration, other departments, agencies, and instrumentalities of the United States Government, industry, and governments of foreign countries; and

(5) provide medical consultation services to the Administrator about medical certification of airmen.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1179.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44507	49 App.:1353(e).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(e); added Nov. 3, 1988, Pub. L. 100–591, § 5(b), 102 Stat. 3013.

In clause (4), the words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''Government agencies'' for consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40119, 44501, 44508, 48102 of this title.

§ 44508. Research advisory committee

(a) ESTABLISHMENT AND DUTIES.—(1) There is a research advisory committee in the Federal Aviation Administration. The committee shall—

(A) provide advice and recommendations to the Administrator of the Federal Aviation Administration about needs, objectives, plans, approaches, content, and accomplishments of the aviation research program carried out under sections 40119, 44504, 44505, 44507, 44511–44513, and 44912 of this title;

(B) assist in ensuring that the research is coordinated with similar research being conducted outside the Administration;

(C) review the operations of the regional centers of air transportation excellence established under section 44513 of this title; and

(D) annually review the allocation made by the Administrator of the amounts authorized by section 48102(a) of this title among the major categories of research and development activities carried out by the Administration and provide advice and recommendations to the Administrator on whether such allocation is appropriate to meet the needs and objectives identified under subparagraph (A).

(2) The Administrator may establish subordinate committees to provide advice on specific areas of research conducted under sections 40119, 44504, 44505, 44507, 44511–44513, and 44912 of this title.

(b) MEMBERS, CHAIRMAN, PAY, AND EXPENSES.—(1) The committee is composed of not more than 30 members appointed by the Administrator from among individuals who are not employees of the Administration and who are specially qualified to serve on the committee because of their education, training, or experience. In appointing members of the committee, the Admin-

istrator shall ensure that the regional centers of air transportation excellence, universities, corporations, associations, consumers, and other departments, agencies, and instrumentalities of the United States Government are represented.

(2) The Administrator shall designate the chairman of the committee.

(3) A member of the committee serves without pay. However, the Administrator may allow a member, when attending meetings of the committee or a subordinate committee, expenses as authorized under section 5703 of title 5.

(c) SUPPORT STAFF, INFORMATION, AND SERVICES.—The Administrator shall provide support staff for the committee. On request of the committee, the Administrator shall provide information, administrative services, and supplies that the Administrator considers necessary for the committee to carry out its duties and powers.

(d) NONAPPLICATION.—Section 14 of the Federal Advisory Committee Act (5 App. U.S.C.) does not apply to the committee.

(e) USE AND LIMITATION OF AMOUNTS.—(1) Not more than .1 percent of the amounts made available to conduct research under sections 40119, 44504, 44505, 44507, 44511–44513, and 44912 of this title may be used by the Administrator to carry out this section.

(2) A limitation on amounts available for obligation by or for the committee does not apply to amounts made available to carry out this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1180; Pub. L. 104–264, title XI, § 1104, Oct. 9, 1996, 110 Stat. 3279.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44508(a)(1) ..	49 App.:1353(f)(1), (2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(f); added Nov. 3, 1988, Pub. L. 100–591, § 6, 102 Stat. 3013; Nov. 5, 1990, Pub. L. 101–508, § 9209(b), 104 Stat. 1388–377.
44508(a)(2) ..	49 App.:1353(f)(6) (last sentence).	
44508(b)	49 App.:1353(f)(3)–(5).	
44508(c)	49 App.:1353(f)(6) (1st sentence), (7).	
44508(d)	49 App.:1353(f)(8).	
44508(e)	49 App.:1353(f)(9).	

In subsection (a)(1), before clause (A), the words ''There is a'' are substituted for ''Not later than 180 days after November 3, 1988, the Administrator shall establish'' to eliminate obsolete words. In clause (C), the words ''operations of'' are substituted for ''research and training to be carried out by'' for consistency with section 44513 of the revised title.

In subsection (a)(2), the words ''to the advisory committee'' are omitted as surplus.

In subsection (b)(1), the words ''departments, agencies, and instrumentalities'' are substituted for ''agencies'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(3), the words ''travel or transportation'' are omitted as surplus.

In subsection (e), the words ''for fiscal years beginning after September 30, 1988'' are omitted as obsolete.

REFERENCES IN TEXT

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (d), is section 14 of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1996—Subsec. (a)(1)(D). Pub. L. 104–264 added subpar. (D).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40119, 44501, 48102 of this title.

§ 44509. Demonstration projects

The Secretary of Transportation may carry out under this chapter demonstration projects that the Secretary considers necessary for research and development activities under this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1181.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44509	49 App.:2205(b)(1).	Sept. 3, 1982, Pub. L. 97–248, § 506(b)(1), 96 Stat. 678; restated Dec. 30, 1987, Pub. L. 100–223, § 105(b)(1), 101 Stat. 1490.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44501, 48102, 50101, 50102, 50105 of this title; title 26 section 4261.

§ 44510. Airway science curriculum grants

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make competitive grant agreements with institutions of higher education having airway science curricula for the United States Government's share of the allowable direct costs of the following categories of items to the extent that the items are in support of airway science curricula:

(1) the construction, purchase, or lease with an option to purchase, of buildings and associated facilities.

(2) instructional material and equipment.

(b) COST GUIDELINES.—The Administrator shall establish guidelines to determine the direct costs allowable under a grant to be made under this section. The Government's share of the allowable cost of a project assisted by a grant under this section may not be more than 65 percent.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1181.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44510(a)	49 App.:1354a (1st sentence).	Nov. 5, 1990, Pub. L. 101–516, (1st sentence last proviso, 3d, last sentences in par. under heading ''Facilities and Equipment''), 104 Stat. 2160.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
		Oct. 28, 1991, Pub. L. 102–143, (1st sentence last proviso, 3d, last sentences in par. under heading ''Facilities and Equipment''), 105 Stat. 922. Oct. 6, 1992, Pub. L. 102–388, (1st sentence last proviso, 3d, last sentences in par. under heading ''Facilities and Equipment''), 106 Stat. 1525.
44510(b)	49 App.:1354a (3d, last sentences).	

In subsection (a), before clause (1), the words ''With appropriations made for the Airway Science Program, as authorized below in this section'' are omitted as unnecessary because of section 48106 of the revised title.

In subsection (b), the proviso is omitted as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 48106 of this title.

§ 44511. Aviation research grants

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make grants to institutions of higher education and nonprofit research organizations to conduct aviation research in areas the Administrator considers necessary for the long-term growth of civil aviation.

(b) APPLICATIONS.—An institution of higher education or nonprofit research organization interested in receiving a grant under this section may submit an application to the Administrator. The application must be in the form and contain the information the Administrator requires.

(c) SOLICITATION, REVIEW, AND EVALUATION PROCESS.—The Administrator shall establish a solicitation, review, and evaluation process that ensures—

(1) providing grants under this section for proposals having adequate merit and relevancy to the mission of the Administration;

(2) a fair geographical distribution of grants under this section; and

(3) the inclusion of historically black institutions of higher education and other minority nonprofit research organizations for grant consideration under this section.

(d) RECORDS.—Each person receiving a grant under this section shall maintain records that the Administrator requires as being necessary to facilitate an effective audit and evaluation of the use of money provided under the grant.

(e) ANNUAL REPORT.—The Administrator shall submit an annual report to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on carrying out this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1181; Pub. L. 104–287, § 5(74), Oct. 11, 1996, 110 Stat. 3396.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44511	49 App.:1353(g).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(g); added Nov. 5, 1990, Pub. L. 101–508, § 9205(a), 104 Stat. 1388–373.

In this section, the words ''institutions of higher education'' and ''institution of higher education'' are substituted for ''colleges, universities'', ''university, college'', and ''colleges and universities'' for consistency in the revised title.

In subsection (c), the words ''providing grants'' are substituted for ''the funding'', the word ''grants'' is substituted for ''grant funds'', and the words ''grant consideration'' are substituted for ''funding consideration'', for consistency in the revised title.

In subsection (d), the words ''money provided under the grant'' are substituted for ''grant funds'' for consistency.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–287 substituted ''Committee on Science'' for ''Committee on Science, Space, and Technology''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40119, 44501, 44508, 48102, 50103 of this title.

§ 44512. Catastrophic failure prevention research grants

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make grants to institutions of higher education and nonprofit research organizations—

(1) to conduct aviation research related to the development of technologies and methods to assess the risk of, and prevent, defects, failures, and malfunctions of products, parts, processes, and articles manufactured for use in aircraft, aircraft engines, propellers, and appliances that could result in a catastrophic failure of an aircraft; and

(2) to establish centers of excellence for continuing the research.

(b) SOLICITATION, APPLICATION, REVIEW, AND EVALUATION PROCESS.—The Administrator shall establish a solicitation, application, review, and evaluation process that ensures providing grants under this section for proposals having adequate merit and relevancy to the research described in subsection (a) of this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1182.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44512	49 App.:1353(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(h); added Nov. 5, 1990, Pub. L. 101–508, § 9208(b), 104 Stat. 1388–376.

In this section, the words ''institutions of higher education'' are substituted for ''colleges, universities'' for consistency in the revised title.

In subsection (b), the words ''providing grants'' are substituted for ''the funding'' for consistency in the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40119, 44501, 44508, 48102, 50103 of this title.

§ 44513. Regional centers of air transportation excellence

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make grants to institutions of higher education to establish and operate regional centers of air transportation excellence. The locations shall be distributed in a geographically fair way.

(b) RESPONSIBILITIES.—(1) The responsibilities of each center established under this section shall include—

(A) conducting research on—

(i) airspace and airport planning and design;

(ii) airport capacity enhancement techniques;

(iii) human performance in the air transportation environment;

(iv) aviation safety and security;

(v) the supply of trained air transportation personnel, including pilots and mechanics; and

(vi) other aviation issues related to developing and maintaining a safe and efficient air transportation system; and

(B) interpreting, publishing, and disseminating the results of the research.

(2) In conducting research described in paragraph (1)(A) of this subsection, each center may make contracts with nonprofit research organizations and other appropriate persons.

(c) APPLICATIONS.—An institution of higher education interested in receiving a grant under this section may submit an application to the Administrator. The application must be in the form and contain the information that the Administrator requires by regulation.

(d) SELECTION CRITERIA.—The Administrator shall select recipients of grants under this section on the basis of the following criteria:

(1) the extent to which the needs of the State in which the applicant is located are representative of the needs of the region for improved air transportation services and facilities.

(2) the demonstrated research and extension resources available to the applicant to carry out this section.

(3) the ability of the applicant to provide leadership in making national and regional contributions to the solution of both long-range and immediate air transportation problems.

(4) the extent to which the applicant has an established air transportation program.

(5) the demonstrated ability of the applicant to disseminate results of air transportation research and educational programs through a statewide or regionwide continuing education program.

(6) the projects the applicant proposes to carry out under the grant.

(e) EXPENDITURE AGREEMENTS.—A grant may be made under this section in a fiscal year only if the recipient makes an agreement with the Administrator that the Administrator requires to ensure that the recipient will maintain its total expenditures from all other sources for establishing and operating the center and related research activities at a level at least equal to the average level of those expenditures in the 2 fiscal years of the recipient occurring immediately before November 5, 1990.

(f) GOVERNMENT'S SHARE OF COSTS.—The United States Government's share of a grant under this section is 50 percent of the costs of establishing and operating the center and related research activities that the grant recipient carries out.

(g) ALLOCATING AMOUNTS.—The Administrator shall allocate amounts made available to carry out this section in a geographically fair way.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1182.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44513	49 App.:1353(i).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 312(i); added Nov. 5, 1990, Pub. L. 101–508, § 9209(a), 104 Stat. 1388–376.

In this section, the words ''institutions of higher education'' and ''institution of higher education'' are substituted for ''colleges or universities'' and ''college or university'' for consistency in the revised title.

In subsection (a), the words ''one or more'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40119, 44501, 44508, 48102, 50103 of this title.

§ 44514. Flight service stations

(a) HOURS OF OPERATION.—(1) The Secretary of Transportation may close, or reduce the hours of operation of, a flight service station in an area only if the service provided in the area after the closing or during the hours the station is not in operation is provided by an automated flight service station with at least model 1 equipment.

(2) The Secretary shall reopen a flight service station closed after March 24, 1987, but before July 15, 1987, as soon as practicable if the service in the area in which the station is located has not been provided since the closing by an automatic flight service station with at least model 1 equipment. The hours of operation for the reopened station shall be the same as were the hours of operation for the station on March 25, 1987. After reopening the station, the Secretary may close, or reduce the hours of operation of, the station only as provided in paragraph (1) of this subsection.

(b) MANNED AUXILIARY STATIONS.—The Secretary and the Administrator of the Federal Aviation Administration shall establish a system of manned auxiliary flight service stations. The manned auxiliary flight service stations shall supplement the services of the planned consolidation to 61 automated flight service stations under the flight service station modernization program. A manned auxiliary flight service station shall be located in an area of unique weather or operational conditions that are critical to the safety of flight.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1183.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44514(a)	49 App.:2224.	Sept. 3, 1982, Pub. L. 97–248, § 528, 96 Stat. 699; restated Dec. 30, 1987, Pub. L. 100–223, § 113, 101 Stat. 1505.
44514(b)	49 App.:1348 (notes).	Nov. 5, 1990, Pub. L. 101–508, § 9115, 104 Stat. 1388–364. Nov. 5, 1990, Pub. L. 101–516, § 330(a), 104 Stat. 2184.

In subsection (a)(1), the words ''On or after July 15, 1987'' are omitted as obsolete.

In subsection (a)(2), the words ''after December 30, 1987'' are omitted as obsolete. The words ''the date of'' are omitted as surplus.

In subsection (b), the text of section 9115(b) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508, 104 Stat. 1388–364) and section 330(a) (last sentence) of the Department of Transportation and Related Agencies Appropriations Act, 1991 (Public Law 101–516, 104 Stat. 2184) is omitted as obsolete.

§ 44515. Advanced training facilities for maintenance technicians for air carrier aircraft

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make grants to not more than 4 vocational technical educational institutions to acquire or construct facilities to be used for the advanced training of maintenance technicians for air carrier aircraft.

(b) ELIGIBILITY.—The Administrator may make a grant under this section to a vocational technical educational institution only if the institution has a training curriculum that prepares aircraft maintenance technicians who hold airframe and power plant certificates under subpart D of part 65 of title 14, Code of Federal Regulations, to maintain, without direct supervision, air carrier aircraft.

(c) LIMITATION.—A vocational technical educational institution may not receive more than a total of $5,000,000 in grants under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1184.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44515	49 App.:1354 (note).	Oct., 31, 1992, Pub. L. 102–581, § 119(a)–(c), 106 Stat. 4883.

The words ''vocational technical educational institution'' are used throughout this section for consistency in this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 48110 of this title.

CHAPTER 447—SAFETY REGULATION

Sec.
44701. General requirements.
44702. Issuance of certificates.
44703. Airman certificates.
44704. Type certificates, production certificates, and airworthiness certificates.
44705. Air carrier operating certificates.
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44707. Examining and rating air agencies.
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44709. Amendments, modifications, suspensions, and revocations of certificates.
44710. Revocations of airman certificates for controlled substance violations.
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44712. Emergency locator transmitters.
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44716. Collision avoidance systems.
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44721. Aeronautical maps and charts.
44722. Aircraft operations in winter conditions.
44723. Annual report.
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AMENDMENTS

1996—Pub. L. 104–264, title VI, § 602(a)(2), Oct. 9, 1996, 110 Stat. 3264, added item 44724.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 46301, 46316 of this title; title 10 section 2640; title 11 section 1110.

§ 44701. General requirements

(a) PROMOTING SAFETY.—The Administrator of the Federal Aviation Administration shall promote safe flight of civil aircraft in air commerce by prescribing—

(1) minimum standards required in the interest of safety for appliances and for the design, material, construction, quality of work, and performance of aircraft, aircraft engines, and propellers;

(2) regulations and minimum standards in the interest of safety for—

(A) inspecting, servicing, and overhauling aircraft, aircraft engines, propellers, and appliances;

(B) equipment and facilities for, and the timing and manner of, the inspecting, servicing, and overhauling; and

(C) a qualified private person, instead of an officer or employee of the Administration, to examine and report on the inspecting, servicing, and overhauling;

(3) regulations required in the interest of safety for the reserve supply of aircraft, aircraft engines, propellers, appliances, and aircraft fuel and oil, including the reserve supply of fuel and oil carried in flight;

(4) regulations in the interest of safety for the maximum hours or periods of service of airmen and other employees of air carriers; and

(5) regulations and minimum standards for other practices, methods, and procedure the Administrator finds necessary for safety in air commerce and national security.

(b) PRESCRIBING MINIMUM SAFETY STANDARDS.—The Administrator may prescribe minimum safety standards for—

(1) an air carrier to whom a certificate is issued under section 44705 of this title; and

(2) operating an airport serving any passenger operation of air carrier aircraft designed for at least 31 passenger seats.

(c) REDUCING AND ELIMINATING ACCIDENTS.—The Administrator shall carry out this chapter

in a way that best tends to reduce or eliminate the possibility or recurrence of accidents in air transportation. However, the Administrator is not required to give preference either to air transportation or to other air commerce in carrying out this chapter.

(d) CONSIDERATIONS AND CLASSIFICATION OF REGULATIONS AND STANDARDS.—When prescribing a regulation or standard under subsection (a) or (b) of this section or any of sections 44702–44716 of this title, the Administrator shall—

(1) consider—

(A) the duty of an air carrier to provide service with the highest possible degree of safety in the public interest; and

(B) differences between air transportation and other air commerce; and

(2) classify a regulation or standard appropriate to the differences between air transportation and other air commerce.

(e) EXEMPTIONS.—The Administrator may grant an exemption from a requirement of a regulation prescribed under subsection (a) or (b) of this section or any of sections 44702–44716 of this title if the Administrator finds the exemption is in the public interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1185; Pub. L. 103–429, § 6(55), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44701(a)	49 App.:1421(a).	Aug. 23, 1958, Pub. L. 85–726, §§ 601(a), (b) (1st sentence related to standards, rules, and regulations, last sentence), (c), 604(a) (related to standards), 72 Stat. 775, 778.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44701(b)	49 App.:1424(a) (related to standards).	
	49 App.:1432(a) (related to standards).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 612(a) (related to standards); added May 21, 1970, Pub. L. 91–258, § 51(b)(1), 84 Stat. 234; restated Sept. 3, 1982, Pub. L. 97–248, § 525(a), 96 Stat. 697.
	49 App.:1655(c)(1).	
44701(c)	49 App.:1421(b) (last sentence).	
	49 App.:1655(c)(1).	
44701(d)	49 App.:1421(b) (1st sentence related to standards, rules, and regulations).	
	49 App.:1655(c)(1).	
44701(e)	49 App.:1421(c).	
	49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in sections 601(a)–(c) and 604 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 775, 778) is retained on authority of 49:106(g).

In subsection (a), before clause (1), the words ''is empowered and it . . . be his duty to'' and ''and revising from time to time'' are omitted as surplus. In clause (1), the words ''as may be'' are omitted as surplus. In clauses (2)–(5), the words ''Reasonable'' and ''reasonable'' are omitted as surplus and the word ''rules'' is omitted as being synonymous with ''regulations''. In clause (5), the words ''to provide adequately'' are omitted as surplus.

In subsection (b)(1), the words ''the operation of'' are omitted as surplus. The words ''under section 44705 of this title'' are added for clarity.

In subsection (b)(2), the words ''scheduled or unscheduled'' are omitted as surplus.

In subsection (c), the words ''carry out'' are substituted for ''exercise and perform his powers and duties under'', and the words ''in carrying out'' are substituted for ''in the administration and enforcement of'', for consistency and to eliminate unnecessary words.

In subsection (d), before clause (1), the word ''rules'' is omitted as being synonymous with ''regulations''. In clause (1), before subclause (A), the word ''full'' is omitted as surplus. In clause (1)(A), the word ''provide'' is substituted for ''perform'' for consistency in the revised title.

In subsection (e), the words ''from time to time'' are omitted as surplus. The word ''rule'' is omitted as being synonymous with ''regulation''.

PUB. L. 103–429

This amends 49:44701(d) and (e) to correct erroneous cross-references.

AMENDMENTS

1994—Subsecs. (d), (e). Pub. L. 103–429 substituted ''any of sections 44702–44716'' for ''section 44702–44716''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44704, 44711, 44717, 45302, 46310, 47531 of this title.

§ 44702. Issuance of certificates

(a) GENERAL AUTHORITY AND APPLICATIONS.—The Administrator of the Federal Aviation Administration may issue airman certificates, type certificates, production certificates, airworthiness certificates, air carrier operating certificates, airport operating certificates, air agency certificates, and air navigation facility certificates under this chapter. An application for a certificate must—

(1) be under oath when the Administrator requires; and

(2) be in the form, contain information, and be filed and served in the way the Administrator prescribes.

(b) CONSIDERATIONS.—When issuing a certificate under this chapter, the Administrator shall—

(1) consider—

(A) the duty of an air carrier to provide service with the highest possible degree of safety in the public interest; and

(B) differences between air transportation and other air commerce; and

(2) classify a certificate according to the differences between air transportation and other air commerce.

(c) PRIOR CERTIFICATION.—The Administrator may authorize an aircraft, aircraft engine, propeller, or appliance for which a certificate has been issued authorizing the use of the aircraft, aircraft engine, propeller, or appliance in air transportation to be used in air commerce without another certificate being issued.

(d) DELEGATION.—(1) Subject to regulations, supervision, and review the Administrator may

prescribe, the Administrator may delegate to a qualified private person, or to an employee under the supervision of that person, a matter related to—

(A) the examination, testing, and inspection necessary to issue a certificate under this chapter; and

(B) issuing the certificate.

(2) The Administrator may rescind a delegation under this subsection at any time for any reason the Administrator considers appropriate.

(3) A person affected by an action of a private person under this subsection may apply for reconsideration of the action by the Administrator. On the Administrator's own initiative, the Administrator may reconsider the action of a private person at any time. If the Administrator decides on reconsideration that the action is unreasonable or unwarranted, the Administrator shall change, modify, or reverse the action. If the Administrator decides the action is warranted, the Administrator shall affirm the action.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1186.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44702(a)	49 App.:1422(a) (1st–10th words).	Aug. 23, 1958, Pub. L. 85–726, §§314 (less (a) (last sentence related to fees)), 601(b) (1st sentence related to issuing certificates, 2d sentence), 602(a) (1st–8th words), 603(a)(1), (b), (c) (as §603(a)(1), (b), (c) relate to issuing certificates), 604(a) (related to issuing certificates), 606 (last sentence), 607 (last sentence), 608, 72 Stat. 754, 775, 776, 777, 778, 779.
	49 App.:1423(a)(1), (b), (c) (as 49 App.:1423(a)(1), (b), (c) relate to issuing certificates).	
	49 App.:1424(a) (related to issuing certificates).	
	49 App.:1426 (last sentence).	
	49 App.:1427 (last sentence).	
	49 App.:1428.	
	49 App.:1432(a) (related to issuing certificates).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §612(a) (related to issuing certificates); added May 21, 1970, Pub. L. 91–258, §51(b)(1), 84 Stat. 234; restated Sept. 3, 1982, Pub. L. 97–248, §525(a), 96 Stat. 697.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44702(b)	49 App.:1421(b) (1st sentence related to issuing certificates).	
	49 App.:1655(c)(1).	
44702(c)	49 App.:1421(b) (2d sentence).	
	49 App.:1655(c)(1).	
44702(d)	49 App.:1355 (less (a) (last sentence related to fees)).	
	49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in sections 601(b), 602(a), 603(a)(1), 604(a), 606 (last sentence), 607 (last sentence), and 608 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 775, 776, 778, 779) is retained on authority of 49:106(g).

In subsection (a), the reference to a type certificate and production certificate is added for clarity.

In subsection (b)(1), before subclause (A), the word ''full'' is omitted as surplus. In clause (1)(A), the word ''provide'' is substituted for ''perform'' for consistency in the revised title.

In subsection (d)(1), before clause (A), the words ''In exercising the powers and duties vested in him by this chapter'' and ''properly'' are omitted as surplus. The words ''or employees'' are omitted because of 1:1. The word ''matter'' is substituted for ''work, business, or function'' to eliminate unnecessary words. In clause (B), the words ''in accordance with standards established by him'' are omitted as surplus.

In subsection (d)(2), the words ''made by him'' are omitted as surplus.

In subsection (d)(3), the words ''exercising delegated authority'' and ''with respect to the authority granted under subsection (a) of this section'' are omitted as surplus. The words ''at any time'' are substituted for ''either before or after it has become effective'', and the words ''If the Administrator decides on reconsideration that the action is unreasonable or unwarranted'' are substituted for ''If, upon reconsideration by the Secretary of Transportation, it shall appear that the action in question is in any respect unjust or unwarranted'', to eliminate unnecessary words. The words ''the action'' are substituted for ''the same accordingly'', and the words ''If the Administrator decides the action is warranted, the Administrator shall affirm the action'' are substituted for ''otherwise, such action shall be affirmed'', for clarity. The text of 49 App.:1355(b) (proviso) is omitted as unnecessary because of 5:559 (last sentence).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44701, 44711, 45302, 45304, 46310, 47531 of this title.

§ 44703. Airman certificates

(a) GENERAL.—The Administrator of the Federal Aviation Administration shall issue an airman certificate to an individual when the Administrator finds, after investigation, that the individual is qualified for, and physically able to perform the duties related to, the position to be authorized by the certificate.

(b) CONTENTS.—(1) An airman certificate shall—

(A) be numbered and recorded by the Administrator of the Federal Aviation Administration;

(B) contain the name, address, and description of the individual to whom the certificate is issued;

(C) contain terms the Administrator decides are necessary to ensure safety in air commerce, including terms on the duration of the certificate, periodic or special examinations, and tests of physical fitness;

(D) specify the capacity in which the holder of the certificate may serve as an airman with respect to an aircraft; and

(E) designate the class the certificate covers.

(2) A certificate issued to a pilot serving in scheduled air transportation shall have the designation ''airline transport pilot'' of the appropriate class.

(c) APPEALS.—(1) An individual whose application for the issuance or renewal of an airman certificate has been denied may appeal the denial to the National Transportation Safety Board, except if the individual holds a certificate that—

(A) is suspended at the time of denial; or

(B) was revoked within one year from the date of the denial.

(2) The Board shall conduct a hearing on the appeal at a place convenient to the place of residence or employment of the applicant. The Board is not bound by findings of fact of the Administrator of the Federal Aviation Administration but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law. At the end of the hearing, the Board shall decide whether the individual meets the applicable regulations and standards. The Administrator is bound by that decision.

(d) RESTRICTIONS AND PROHIBITIONS.—The Administrator of the Federal Aviation Administration may—

(1) restrict or prohibit issuing an airman certificate to an alien; or

(2) make issuing the certificate to an alien dependent on a reciprocal agreement with the government of a foreign country.

(e) CONTROLLED SUBSTANCE VIOLATIONS.—The Administrator of the Federal Aviation Administration may not issue an airman certificate to an individual whose certificate is revoked under section 44710 of this title except—

(1) when the Administrator decides that issuing the certificate will facilitate law enforcement efforts; and

(2) as provided in section 44710(e)(2) of this title.

(f) MODIFICATIONS IN SYSTEM.—(1) The Administrator of the Federal Aviation Administration shall make modifications in the system for issuing airman certificates necessary to make the system more effective in serving the needs of pilots and officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)). The modifications shall ensure positive and verifiable identification of each individual applying for or holding a certificate and shall address at least each of the following deficiencies in, and abuses of, the existing system:

(A) the use of fictitious names and addresses by applicants for those certificates.

(B) the use of stolen or fraudulent identification in applying for those certificates.

(C) the use by an applicant of a post office box or ''mail drop'' as a return address to evade identification of the applicant's address.

(D) the use of counterfeit and stolen airman certificates by pilots.

(E) the absence of information about physical characteristics of holders of those certificates.

(2) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out paragraph (1) of this subsection and provide a written explanation of how the regulations address each of the deficiencies and abuses described in paragraph (1). In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Commissioner of Customs, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1186.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44703(a)	49 App.:1422(b)(1) (1st sentence, 2d sentence words before 6th comma).	Aug. 23, 1958, Pub. L. 85–726, § 602(b)(1), 72 Stat. 776; Oct. 19, 1984, Pub. L. 98–499, § 3, 98 Stat. 2313; Aug. 26, 1992, Pub. L. 102–345, § 4, 106 Stat. 926.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44703(b)	49 App.:1422(a) (11th–last words).	Aug. 23, 1958, Pub. L. 85–726, § 602(a) (9th–last words), (c), 72 Stat. 776.
	49 App.:1422(b)(1) (2d sentence words after 6th comma), (c).	
	49 App.:1655(c)(1).	
44703(c)(1) ..	49 App.:1422(b)(1) (3d sentence).	
44703(c)(2) ..	49 App.:1422(b)(1) (4th, 5th sentences, last sentence words before proviso).	
	49 App.:1655(c)(1).	
44703(d)	49 App.:1422(b)(1) (last sentence proviso).	
	49 App.:1655(c)(1).	
44703(e)	49 App.:1422(b)(2)(A), (B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 602(b)(2)(A), (B); added Oct. 19, 1984, Pub. L. 98–499, § 3, 98 Stat. 2313; restated Nov. 18, 1988, Pub. L. 100–690, § 7204(a), 102 Stat. 4425.
44703(f)(1) ...	49 App.:1422(d).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 602(d); added Nov. 18, 1988, Pub. L. 100–690, § 7205(a), 102 Stat. 4426.
44703(f)(2) ...	49 App.:1401 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7207(a) (1st sentence), (b), 102 Stat. 4427.

In subsections (a)–(d), the word ''Administrator'' in section 602(a), (b)(1), and (c) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 776) is retained on authority of 49:106(g).

In subsection (a), the text of 49 App.:1422(b) (1st sentence) is omitted as surplus. The words ''is qualified'' are substituted for ''possesses proper qualifications'' to eliminate unnecessary words. The words ''to be authorized by the certificate'' are substituted for ''for which the airman certificate is sought'' for clarity.

In subsection (b)(1)(C), the words ''conditions, and limitations'' are omitted as being included in ''terms''.

In subsection (b)(1)(E), the word ''designate'' is substituted for ''be entitled with the designation of'' to eliminate unnecessary words.

In subsection (c)(1), before clause (A), the words ''may appeal . . . to'' are substituted for ''may file with . . . a petition for review of the Secretary of Transportation's action'' for consistency with section 1109 of the revised title. The words ''the individual holds a certificate that'' are substituted for ''persons whose certificates'' for clarity.

In subsection (c)(2), the words ''conduct a hearing on the appeal'' are substituted for ''thereupon assign such petition for hearing'' for consistency. The words ''In the conduct of such hearing and in determining whether the airman meets the pertinent rules, regulations, or

standards'' are omitted as surplus. The word ''Administrator'' is substituted for ''Federal Aviation Administration'' because of 49:106(b) and (g). The words ''meets the applicable regulations'' are substituted for ''meets the pertinent rules, regulations'' because ''rules'' and ''regulations'' are synonymous and for consistency in the revised title.

In subsection (d), before clause (1), the words ''in his discretion'' are omitted as surplus. In clause (2), the words ''the terms of'' and ''entered into'' are omitted as surplus. The words ''government of a foreign country'' are substituted for ''foreign governments'' for consistency in the revised title and with other titles of the United States Code.

In subsection (f)(1), before clause (A), the words ''established under this chapter'' and ''to pilots'' are omitted as surplus.

In subsection (f)(2), the words ''Not later than September 18, 1989'' and ''final'' are omitted as obsolete. The words ''Administrator of Drug Enforcement'' are substituted for ''Drug Enforcement Administration of the Department of Justice'' because of section 5(a) of Reorganization Plan No. 2 of 1973 (eff. July 1, 1973, 87 Stat. 1092). The words ''Commissioner of Customs'' are substituted for ''United States Customs Service'' because of 19:2071.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 1133, 44701, 44709, 44710, 44711, 44724, 45302, 46310, 47531 of this title.

§ 44704. Type certificates, production certificates, and airworthiness certificates

(a) TYPE CERTIFICATES.—(1) The Administrator of the Federal Aviation Administration shall issue a type certificate for an aircraft, aircraft engine, or propeller, or for an appliance specified under paragraph (2)(A) of this subsection when the Administrator finds that the aircraft, aircraft engine, propeller, or appliance is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under section 44701(a) of this title. On receiving an application for a type certificate, the Administrator shall investigate the application and may conduct a hearing. The Administrator shall make, or require the applicant to make, tests the Administrator considers necessary in the interest of safety.

(2) The Administrator may—

(A) specify in regulations those appliances that reasonably require a type certificate in the interest of safety;

(B) include in a type certificate terms required in the interest of safety; and

(C) record on the certificate a numerical specification of the essential factors related to the performance of the aircraft, aircraft engine, or propeller for which the certificate is issued.

(b) SUPPLEMENTAL TYPE CERTIFICATES.—

(1) ISSUANCE.—The Administrator may issue a type certificate designated as a supplemental type certificate for a change to an aircraft, aircraft engine, propeller, or appliance.

(2) CONTENTS.—A supplemental type certificate issued under paragraph (1) shall consist of the change to the aircraft, aircraft engine, propeller, or appliance with respect to the previously issued type certificate for the aircraft, aircraft engine, propeller, or appliance.

(3) REQUIREMENT.—If the holder of a supplemental type certificate agrees to permit another person to use the certificate to modify an aircraft, aircraft engine, propeller, or appliance, the holder shall provide the other person with written evidence, in a form acceptable to the Administrator, of that agreement. A person may change an aircraft, aircraft engine, propeller, or appliance based on a supplemental type certificate only if the person requesting the change is the holder of the supplemental type certificate or has permission from the holder to make the change.

(c) PRODUCTION CERTIFICATES.—The Administrator shall issue a production certificate authorizing the production of a duplicate of an aircraft, aircraft engine, propeller, or appliance for which a type certificate has been issued when the Administrator finds the duplicate will conform to the certificate. On receiving an application, the Administrator shall inspect, and may require testing of, a duplicate to ensure that it conforms to the requirements of the certificate. The Administrator may include in a production certificate terms required in the interest of safety.

(d) AIRWORTHINESS CERTIFICATES.—(1) The registered owner of an aircraft may apply to the Administrator for an airworthiness certificate for the aircraft. The Administrator shall issue an airworthiness certificate when the Administrator finds that the aircraft conforms to its type certificate and, after inspection, is in condition for safe operation. The Administrator shall register each airworthiness certificate and may include appropriate information in the certificate. The certificate number or other individual designation the Administrator requires shall be displayed on the aircraft. The Administrator may include in an airworthiness certificate terms required in the interest of safety.

(2) A person applying for the issuance or renewal of an airworthiness certificate for an aircraft for which ownership has not been recorded under section 44107 or 44110 of this title must submit with the application information related to the ownership of the aircraft the Administrator decides is necessary to identify each person having a property interest in the aircraft and the kind and extent of the interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1188; Pub. L. 104–264, title IV, § 403, Oct. 9, 1996, 110 Stat. 3256.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44704(a)(1) ..	49 App.:1423(a)(2) (1st–4th sentences).	Aug. 23, 1958, Pub. L. 85–726, §§ 503(h), 603(a)(1) (related to regulations for appliances), (2), (b) (related to basis for issuing, and contents of, certificates), (c) (related to basis for issuing, and contents of, certificates), 72 Stat. 774, 776.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44704(a)(2) ..	49 App.:1423(a)(1) (related to regulations for appliances), (2) (5th, last sentences).	
	49 App.:1655(c)(1).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44704(b)	49 App.:1423(b) (related to basis for issuing, and contents of, certificates). 49 App.:1655(c)(1).	
44704(c)(1) ..	49 App.:1423(c) (related to basis for issuing, and contents of, certificates). 49 App.:1655(c)(1).	
44704(c)(2) ..	49 App.:1403(h). 49 App.:1655(c)(1).	

In subsections (a)–(c)(1), the word ''Administrator'' in section 603 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 776) is retained on authority of 49:106(g).

In subsection (a)(1), the text of 49 App.:1423(a)(2) (1st sentence 1st–16th words) and the words ''in regulations'' are omitted as surplus. The words ''properly designed and manufactured, performs properly'' are substituted for ''of proper design, material, specification, construction, and performance for safe operation'' to eliminate unnecessary words. The word ''rules'' is omitted as being synonymous with ''regulations''. The words ''under section 44701(a) of this title'' and ''for a type certificate'' are added for clarity. The words ''including flight tests and tests of raw materials or any part or appurtenance of such aircraft, aircraft engine, propeller, or appliance'' are omitted as surplus.

In subsection (a)(2)(A), the words ''issuance of'' are omitted as surplus.

In subsection (a)(2)(B), the words ''the duration thereof and such other'' are omitted as surplus. The words ''conditions, and limitations'' are omitted as being included in ''terms''.

In subsection (a)(2)(C), the words ''issued for aircraft, aircraft engines, or propellers'' and ''all of'' are omitted as surplus. The word ''specification'' is substituted for ''determination'' for clarity.

In subsection (b), the word ''satisfactorily'' is omitted as surplus. The words ''shall inspect, and may require testing of, a duplicate to ensure that it conforms to the requirements of the certificate'' are substituted for ''shall make such inspection and may require such tests of any aircraft, aircraft engine, propeller, or appliance manufactured under a production certificate as may be necessary to assure manufacture of each unit in conformity with the type certificate or any amendment or modification thereof'' to eliminate unnecessary words. The words ''the duration thereof and such other . . . conditions, and limitations'' are omitted as surplus.

In subsection (c)(1), the words ''may apply to'' are substituted for ''may file with . . . an application'' to eliminate unnecessary words. The words ''in accordance with regulations prescribed by the Secretary of Transportation'' are omitted because of 49:322(a). The words ''the duration of such certificate, the type of service for which the aircraft may be used, and such other . . . conditions, and limitations'' are omitted as surplus.

In subsection (c)(2), the words ''having a property interest'' are substituted for ''who are holders of property interests'' to eliminate unnecessary words.

AMENDMENTS

1996—Subsecs. (b) to (d). Pub. L. 104–264 added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44110, 44701, 44711, 44715, 45302, 46310, 47531 of this title.

§ 44705. Air carrier operating certificates

The Administrator of the Federal Aviation Administration shall issue an air carrier operating certificate to a person desiring to operate as an air carrier when the Administrator finds, after investigation, that the person properly and adequately is equipped and able to operate safely under this part and regulations and standards prescribed under this part. An air carrier operating certificate shall—

(1) contain terms necessary to ensure safety in air transportation; and

(2) specify the places to and from which, and the airways of the United States over which, a person may operate as an air carrier.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1189.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44705	49 App.:1424(b). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85–726, § 604(b), 72 Stat. 778. Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In this section, the word ''Administrator'' in section 604(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 778) is retained on authority of 49:106(g). Before clause (1), the words ''may file with the Secretary of Transportation an application for an air carrier operating certificate'' and ''the requirements of'' are omitted as surplus. The word ''rules'' is omitted as being synonymous with ''regulations''. In clause (1), the words ''conditions, and limitations . . . reasonably'' are omitted as surplus. In clause (2), the word ''places'' is substituted for ''points'' for consistency in the revised title. The words ''under an air carrier operating certificate'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44107, 44701, 44711, 45302, 46310, 47531 of this title.

§ 44706. Airport operating certificates

(a) GENERAL.—The Administrator of the Federal Aviation Administration shall issue an airport operating certificate to a person desiring to operate an airport—

(1) that serves an air carrier operating aircraft designed for at least 31 passenger seats;

(2) that is not located in the State of Alaska and serves any scheduled passenger operation of an air carrier operating aircraft designed for more than 9 passenger seats but less than 31 passenger seats; and

(3) that the Administrator requires to have a certificate;

if the Administrator finds, after investigation, that the person properly and adequately is equipped and able to operate safely under this part and regulations and standards prescribed under this part.

(b) TERMS.—An airport operating certificate issued under this section shall contain terms necessary to ensure safety in air transportation. Unless the Administrator decides that it is not

in the public interest, the terms shall include conditions related to—

(1) operating and maintaining adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any part of the airport used for landing, takeoff, or surface maneuvering of an aircraft; and

(2) friction treatment for primary and secondary runways that the Secretary of Transportation decides is necessary.

(c) EXEMPTIONS.—The Administrator may exempt from the requirements of this section, related to firefighting and rescue equipment, an operator of an airport described in subsection (a) of this section having less than .25 percent of the total number of passenger boardings each year at all airports described in subsection (a) when the Administrator decides that the requirements are or would be unreasonably costly, burdensome, or impractical.

(d) COMMUTER AIRPORTS.—In developing the terms required by subsection (b) for airports covered by subsection (a)(2), the Administrator shall identify and consider a reasonable number of regulatory alternatives and select from such alternatives the least costly, most cost-effective or the least burdensome alternative that will provide comparable safety at airports described in subsections (a)(1) and (a)(2).

(e) EFFECTIVE DATE.—Any regulation establishing the terms required by subsection (b) for airports covered by subsection (a)(2) shall not take effect until such regulation, and a report on the economic impact of the regulation on air service to the airports covered by the rule, has been submitted to Congress and 120 days have elapsed following the date of such submission.

(f) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this title may be construed as requiring a person to obtain an airport operating certificate if such person does not desire to operate an airport described in subsection (a).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1189; Pub. L. 104–264, title IV, § 404, Oct. 9, 1996, 110 Stat. 3256.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44706(a)	49 App.:1432(b) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 612(b); added May 21, 1970, Pub. L. 91–258, § 51(b)(1), 84 Stat. 234; Nov. 27, 1971, Pub. L. 92–174, § 5(b), 85 Stat. 492; Sept. 3, 1982, Pub. L. 97–248, §§ 524(f), 525(b), 96 Stat. 697.
44706(b)	49 App.:1432(b) (3d, last sentences).	
44706(c)	49 App.:1432(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 612(c); added July 12, 1976, Pub. L. 94–353, § 19(a), 90 Stat. 883; Sept. 3, 1982, Pub. L. 97–248, § 525(c), 96 Stat. 697.

In subsection (a), before clause (1), the words ''may file with the Administrator an application for an airport operating certificate'' are omitted as surplus. In clause (3), the words ''the requirements of'' are omitted as surplus. The word ''rules'' is omitted as being synonymous with ''regulations''.

In subsection (b), before clause (1), the words ''conditions, and limitations . . . reasonably'' are omitted as surplus. In clause (2), the words ''grooving or other'' are omitted as surplus.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–264, § 404(a), added par. (2), redesignated former par. (2) as (3), substituted ''if'' for ''(3) when'' in former par. (3) and adjusted the margins of that par. to make it a flush provision following par. (3).

Subsec. (d). Pub. L. 104–264, § 404(b), added subsec. (d).

Subsec. (e). Pub. L. 104–264, § 404(c), added subsec. (e).

Subsec. (f). Pub. L. 104–264, § 404(d), added subsec. (f).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44701, 44711, 45302, 46310, 47110, 47501, 47531 of this title.

§ 44707. Examining and rating air agencies

The Administrator of the Federal Aviation Administration may examine and rate the following air agencies:

(1) civilian schools giving instruction in flying or repairing, altering, and maintaining aircraft, aircraft engines, propellers, and appliances, on the adequacy of instruction, the suitability and airworthiness of equipment, and the competency of instructors.

(2) repair stations and shops that repair, alter, and maintain aircraft, aircraft engines, propellers, and appliances, on the adequacy and suitability of the equipment, facilities, and materials for, and methods of, repair and overhaul, and the competency of the individuals doing the work or giving instruction in the work.

(3) other air agencies the Administrator decides are necessary in the public interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1190.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44707	49 App.:1427 (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, § 607 (1st sentence), 72 Stat. 779.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In this section, the word ''Administrator'' in section 607 (1st sentence) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 779) is retained on authority of 49:106(g). In clauses (1) and (2), the word ''overhaul'' is omitted as surplus. In clause (1), the words ''course of'' are omitted as surplus. In clause (3), the words ''in his opinion'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44701, 44711, 45302, 46310, 47531 of this title.

§ 44708. Inspecting and rating air navigation facilities

The Administrator of the Federal Aviation Administration may inspect, classify, and rate an air navigation facility available for the use of civil aircraft on the suitability of the facility for that use.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1190.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44708	49 App.:1426 (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §606 (1st sentence), 72 Stat. 779.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

The word ''Administrator'' in section 606 (1st sentence) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 779) is retained on authority of 49:106(g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44701, 44711, 45302, 46310, 47531 of this title.

§ 44709. Amendments, modifications, suspensions, and revocations of certificates

(a) REINSPECTION AND REEXAMINATION.—The Administrator of the Federal Aviation Administration may reinspect at any time a civil aircraft, aircraft engine, propeller, appliance, air navigation facility, or air agency, or reexamine an airman holding a certificate issued under section 44703 of this title.

(b) ACTIONS OF THE ADMINISTRATOR.—The Administrator may issue an order amending, modifying, suspending, or revoking—

(1) any part of a certificate issued under this chapter if—

(A) the Administrator decides after conducting a reinspection, reexamination, or other investigation that safety in air commerce or air transportation and the public interest require that action; or

(B) the holder of the certificate has violated an aircraft noise or sonic boom standard or regulation prescribed under section 44715(a) of this title; and

(2) an airman certificate when the holder of the certificate is convicted of violating section 13(a) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742j–1(a)).

(c) ADVICE TO CERTIFICATE HOLDERS AND OPPORTUNITY TO ANSWER.—Before acting under subsection (b) of this section, the Administrator shall advise the holder of the certificate of the charges or other reasons on which the Administrator relies for the proposed action. Except in an emergency, the Administrator shall provide the holder an opportunity to answer the charges and be heard why the certificate should not be amended, modified, suspended, or revoked.

(d) APPEALS.—(1) A person adversely affected by an order of the Administrator under this section may appeal the order to the National Transportation Safety Board. After notice and an opportunity for a hearing, the Board may amend, modify, or reverse the order when the Board finds—

(A) if the order was issued under subsection (b)(1)(A) of this section, that safety in air commerce or air transportation and the public interest do not require affirmation of the order; or

(B) if the order was issued under subsection (b)(1)(B) of this section—

(i) that control or abatement of aircraft noise or sonic boom and the public health and welfare do not require affirmation of the order; or

(ii) the order, as it is related to a violation of aircraft noise or sonic boom standards and regulations, is not consistent with safety in air commerce or air transportation.

(2) The Board may modify a suspension or revocation of a certificate to imposition of a civil penalty.

(3) When conducting a hearing under this subsection, the Board is not bound by findings of fact of the Administrator but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law.

(e) EFFECTIVENESS OF ORDERS PENDING APPEAL.—When a person files an appeal with the Board under subsection (d) of the section, the order of the Administrator is stayed. However, if the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the order to be effective immediately—

(1) the order is effective; and

(2) the Board shall make a final disposition of the appeal not later than 60 days after the Administrator so advises the Board.

(f) JUDICIAL REVIEW.—A person substantially affected by an order of the Board under this section, or the Administrator when the Administrator decides that an order of the Board under this section will have a significant adverse impact on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1190.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44709(a)	49 App.:1429(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §609(a) (1st–7th sentences, 8th–last sentences less Administrator under title VII), 72 Stat. 779; Nov. 18, 1971, Pub. L. 92–159, §2(a), 85 Stat. 481; Nov. 27, 1971, Pub. L. 92–174, §6, 85 Stat. 492; Aug. 26, 1992, Pub. L. 102–345, §3(a)(1), 106 Stat. 925.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44709(b)	49 App.:1429(a) (2d sentence).	
	49 App.:1429(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §609(b); added Nov. 18, 1971, Pub. L. 92–159, §2(a), 85 Stat. 481.
	49 App.:1431(e) (words before 4th comma).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §611(e); added July 21, 1968, Pub. L. 90–411, §1, 82 Stat. 395; restated Oct. 27, 1972, Pub. L. 92–574, §7(b), 86 Stat. 1241.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1655(c)(1).	
44709(c)	49 App.:1429(a) (3d sentence).	
	49 App.:1431(e) (words between 4th and 5th commas).	
	49 App.:1655(c)(1).	
44709(d)(1) ..	49 App.:1429(a) (4th sentence).	
	49 App.:1431(e) (words after 4th comma).	
44709(d)(2) ..	49 App.:1429(a) (6th sentence).	
44709(d)(3) ..	49 App.:1429(a) (5th sentence).	
	49 App.:1655(c)(1).	
44709(e)	49 App.:1429(a) (7th sentence).	
	49 App.:1655(c)(1).	
44709(f)	49 App.:1429(a) (8th–last sentences less Administrator under subch. VII).	
	49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in section 609(a) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 779) is retained on authority of 49:106(g). The words ''modifying'', ''modify'', and ''modified'' are omitted as surplus.

In subsection (a), the words ''airman holding a certificate issued under section 44703 of this title'' are substituted for ''civil airman'' for clarity.

In subsection (b)(1), before subclause (A), the words ''certificate issued under this chapter'' are substituted for ''type certificate, production certificate, airworthiness certificate, airman certificate, air carrier operating certificate, air navigation facility certificate (including airport operating certificate), or air agency certificate'' to eliminate unnecessary words.

In subsection (b)(2), the words ''in his discretion'' and ''regarding the use or operation of an aircraft'' in 49 App.:1429(b) are omitted as surplus.

In subsection (c), the words ''cases of'' in 49 App.:1429(a) are omitted as surplus.

In subsection (d)(1), before clause (A), the word ''adversely'' is substituted for ''whose certificate is'' in 49 App.:1429(a), and the words ''an opportunity for a'' are added, for consistency in the revised title and with other titles of the United States Code. The words ''of the FAA'' in 49 App.:1431(e) are omitted as surplus.

In subsection (d)(2), the words ''consistent with this subsection'' are omitted as surplus.

In subsection (d)(3), the word ''Administrator'' is substituted for ''Federal Aviation Administration'' because of 49:106(b) and (g).

In subsection (e), before clause (1), the words ''the effectiveness of'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 1133, 1153, 44701, 44711, 45302, 46310, 47531 of this title; title 42 section 4911.

§ 44710. Revocations of airman certificates for controlled substance violations

(a) DEFINITION.—In this section, ''controlled substance'' has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(b) REVOCATION.—(1) The Administrator of the Federal Aviation Administration shall issue an order revoking an airman certificate issued an individual under section 44703 of this title after the individual is convicted, under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance), of an offense punishable by death or imprisonment for more than one year if the Administrator finds that—

(A) an aircraft was used to commit, or facilitate the commission of, the offense; and

(B) the individual served as an airman, or was on the aircraft, in connection with committing, or facilitating the commission of, the offense.

(2) The Administrator shall issue an order revoking an airman certificate issued an individual under section 44703 of this title if the Administrator finds that—

(A) the individual knowingly carried out an activity punishable, under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance), by death or imprisonment for more than one year;

(B) an aircraft was used to carry out or facilitate the activity; and

(C) the individual served as an airman, or was on the aircraft, in connection with carrying out, or facilitating the carrying out of, the activity.

(3) The Administrator has no authority under paragraph (1) of this subsection to review whether an airman violated a law of the United States or a State related to a controlled substance.

(c) ADVICE TO HOLDERS AND OPPORTUNITY TO ANSWER.—Before the Administrator revokes a certificate under subsection (b) of this section, the Administrator must—

(1) advise the holder of the certificate of the charges or reasons on which the Administrator relies for the proposed revocation; and

(2) provide the holder of the certificate an opportunity to answer the charges and be heard why the certificate should not be revoked.

(d) APPEALS.—(1) An individual whose certificate is revoked by the Administrator under subsection (b) of this section may appeal the revocation order to the National Transportation Safety Board. The Board shall affirm or reverse the order after providing notice and an opportunity for a hearing on the record. When conducting the hearing, the Board is not bound by findings of fact of the Administrator but shall be bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law.

(2) When an individual files an appeal with the Board under this subsection, the order of the Administrator revoking the certificate is stayed. However, if the Administrator advises the Board that safety in air transportation or air commerce requires the immediate effectiveness of the order—

(A) the order remains effective; and

(B) the Board shall make a final disposition of the appeal not later than 60 days after the Administrator so advises the Board.

(3) An individual substantially affected by an order of the Board under this subsection, or the

Administrator when the Administrator decides that an order of the Board will have a significant adverse effect on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

(e) ACQUITTAL.—(1) The Administrator may not revoke, and the Board may not affirm a revocation of, an airman certificate under subsection (b)(2) of this section on the basis of an activity described in subsection (b)(2)(A) if the holder of the certificate is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity.

(2) If the Administrator has revoked an airman certificate under this section because of an activity described in subsection (b)(2)(A) of this section, the Administrator shall reissue a certificate to the individual if—

(A) the individual otherwise satisfies the requirements for a certificate under section 44703 of this title; and

(B)(i) the individual subsequently is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity; or

(ii) the conviction on which a revocation under subsection (b)(1) of this section is based is reversed.

(f) WAIVERS.—The Administrator may waive the requirement of subsection (b) of this section that an airman certificate of an individual be revoked if—

(1) a law enforcement official of the United States Government or of a State requests a waiver; and

(2) the Administrator decides that the waiver will facilitate law enforcement efforts.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1191.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44710(a)	49 App.:1429(c)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §609(c)(1), (2), (4); added Oct. 19, 1984, Pub. L. 98–499, §2(a), 98 Stat. 2312, 2313.
44710(b)(1) ..	49 App.:1429(c)(1) (1st sentence).	
44710(b)(2) ..	49 App.:1429(c)(2) (1st sentence).	
44710(b)(3) ..	49 App.:1429(c)(1) (last sentence).	
44710(c)	49 App.:1429(c)(3) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §609(c)(3); added Oct. 19, 1984, Pub. L. 98–499, §2(a), 98 Stat. 2312; Aug. 26, 1992, Pub. L. 102–345, §3(b), 106 Stat. 926.
44710(d)	49 App.:1429(c)(3) (2d–last sentences).	
44710(e)(1) ..	49 App.:1429(c)(2) (last sentence).	
44710(e)(2) ..	49 App.:1422(b)(2)(C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §602(b)(2)(C); added Oct. 19, 1984, Pub. L. 98–499, §3, 98 Stat. 2313.
44710(f)	49 App.:1429(c)(5).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §609(c)(5); added Nov. 18, 1988, Pub. L. 100–690, §7204(b), 102 Stat. 4425.

In subsection (b)(1) and (2), before each clause (A), the words ''of any person'' are omitted as surplus. The words ''issued . . . under section 44703 of this title'' are added for clarity.

In subsection (b)(1), the word ''offense'' is substituted for ''crime'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(2)(C), the words ''in connection with carrying out, or facilitating the carrying out of, the activity'' are substituted for ''in connection with such activity or the facilitation of such activity'' for consistency with the source provisions restated in paragraph (1)(B) of this subsection.

In subsection (d)(1), the word ''Administrator'' is substituted for ''Federal Aviation Administration'' because of 49:106(b) and (g).

In subsection (e)(1), the words ''on appeal'' and ''contained'' are omitted as surplus.

In subsection (e)(2)(B)(i), the word ''contained'' is omitted as surplus.

In subsection (e)(2)(B)(ii), the words ''judgment of'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 1133, 44701, 44703, 44711, 45302, 46310, 47531 of this title.

§ 44711. Prohibitions and exemption

(a) PROHIBITIONS.—A person may not—

(1) operate a civil aircraft in air commerce without an airworthiness certificate in effect or in violation of a term of the certificate;

(2) serve in any capacity as an airman with respect to a civil aircraft, aircraft engine, propeller, or appliance used, or intended for use, in air commerce—

(A) without an airman certificate authorizing the airman to serve in the capacity for which the certificate was issued; or

(B) in violation of a term of the certificate or a regulation prescribed or order issued under section 44701(a) or (b) or any of sections 44702–44716 of this title;

(3) employ for service related to civil aircraft used in air commerce an airman who does not have an airman certificate authorizing the airman to serve in the capacity for which the airman is employed;

(4) operate as an air carrier without an air carrier operating certificate or in violation of a term of the certificate;

(5) operate aircraft in air commerce in violation of a regulation prescribed or certificate issued under section 44701(a) or (b) or any of sections 44702–44716 of this title;

(6) operate a seaplane or other aircraft of United States registry on the high seas in violation of a regulation under section 3 of the International Navigational Rules Act of 1977 (33 U.S.C. 1602);

(7) violate a term of an air agency or production certificate or a regulation prescribed or order issued under section 44701(a) or (b) or any of sections 44702–44716 of this title related to the holder of the certificate;

(8) operate an airport without an airport operating certificate required under section 44706 of this title or in violation of a term of the certificate; or

(9) manufacture, deliver, sell, or offer for sale any aviation fuel or additive in violation of a regulation prescribed under section 44714 of this title.

(b) EXEMPTION.—On terms the Administrator of the Federal Aviation Administration pre-

scribes as being in the public interest, the Administrator may exempt a foreign aircraft and airmen serving on the aircraft from subsection (a) of this section. However, an exemption from observing air traffic regulations may not be granted.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1193; Pub. L. 103–429, § 6(56), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44711(a)(1) ..	49 App.:1430(a)(1).	Aug. 23, 1958, Pub. L. 85–726, § 610(a)(1)–(5), (b), 72 Stat. 780.
44711(a)(2) ..	49 App.:1430(a)(2).	
44711(a)(3) ..	49 App.:1430(a)(3).	
44711(a)(4) ..	49 App.:1430(a)(4).	
44711(a)(5) ..	49 App.:1430(a)(5).	
44711(a)(6) ..	49 App.:1430(a)(6).	Aug. 23, 1958, Pub. L. 85–726, § 610(a)(6), 72 Stat. 780; May 21, 1970, Pub. L. 91–258, § 51(b)(3)(A), 84 Stat. 235.
44711(a)(7) ..	49 App.:1430(a)(7).	Aug. 23, 1958, Pub. L. 85–726, § 610(a)(7), 72 Stat. 780; May 21, 1970, Pub. L. 91–258, § 51(b)(3)(B), 84 Stat. 235; Dec. 31, 1970, Pub. L. 91–604, § 11(b)(2), 84 Stat. 1705.
44711(a)(8) ..	49 App.:1430(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 610(a)(8); added May 21, 1970, Pub. L. 91–258, § 51(b)(3)(C), 84 Stat. 235; Dec. 31, 1970, Pub. L. 91–604, § 11(b)(2), 84 Stat. 1705; restated Sept. 3, 1982, Pub. L. 97–248, § 525(d), 96 Stat. 697.
44711(a)(9) ..	49 App.:1430(a)(9).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 610(a)(9); added Dec. 31, 1970, Pub. L. 91–604, § 11(b)(2), 84 Stat. 1705; Nov. 9, 1977, Pub. L. 95–163, § 15(b)(2), 91 Stat. 1283.
44711(b)	49 App.:1430(b). 49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In subsection (a)(1) and (7), the words ''condition, or limitation'' are omitted as being included in ''term''.

In subsection (a)(1), the words ''without . . . in effect'' are substituted for ''for which there is not currently in effect an'' to eliminate unnecessary words.

In subsection (a)(2), (5), and (7), the word ''rule'' is omitted as being synonymous with ''regulations''.

In subsection (a)(2)(B), the word ''prescribed'' is added for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(5) and (7), the words ''prescribed . . . issued'' are added for consistency in the revised title and with other titles of the Code.

In subsection (a)(5), the words ''of the Secretary of Transportation'' are omitted as surplus.

In subsection (a)(6), the words ''proclaimed by the President'' are omitted as surplus. The words ''section 3 of the International Navigational Rules Act of 1977 (33 U.S.C. 1602)'' are substituted for ''section 143 of title 33'' because the section was part of the Act of October 11, 1951 (ch. 495, 65 Stat. 406), that was repealed by section 3 of the Act of September 24, 1963 (Public Law 88–131, 77 Stat. 194), and replaced by 33:ch. 21. Chapter 21 was repealed by section 10 of the International Navigational Rules Act of 1977 (Public Law 95–75, 91 Stat. 311) and replaced by 33:1601–1608.

In subsection (a)(7), the words ''holding . . . such certificate'' are omitted because of the restatement.

In subsection (a)(8), the words ''by the Administrator'' are omitted as surplus.

In subsection (b), the word ''Administrator'' in section 610(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 780) is retained on authority of 49:106(g). The words ''to the extent, and . . . and conditions'' and ''by such airmen'' are omitted as surplus.

PUB. L. 103–429

This amends 49:44711(a)(2)(B), (5), and (7) and 46310(b) to correct erroneous cross-references.

AMENDMENTS

1994—Subsec. (a)(2)(B), (5), (7). Pub. L. 103–429 inserted ''any of sections'' before ''44702–44716''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44701, 44711, 45302, 46310, 47531 of this title.

§ 44712. Emergency locator transmitters

(a) INSTALLATION.—An emergency locator transmitter must be installed on a fixed-wing powered civil aircraft for use in air commerce.

(b) NONAPPLICATION.—Subsection (a) of this section does not apply to—

(1) turbojet-powered aircraft;

(2) aircraft when used in scheduled flights by scheduled air carriers holding certificates issued by the Secretary of Transportation under subpart II of this part;

(3) aircraft when used in training operations conducted entirely within a 50 mile radius of the airport from which the training operations begin;

(4) aircraft when used in flight operations related to design and testing, the manufacture, preparation, and delivery of the aircraft, or the aerial application of a substance for an agricultural purpose;

(5) aircraft holding certificates from the Administrator of the Federal Aviation Administration for research and development;

(6) aircraft when used for showing compliance with regulations, crew training, exhibition, air racing, or market surveys; and

(7) aircraft equipped to carry only one individual.

(c) REMOVAL.—The Administrator shall prescribe regulations specifying the conditions under which an aircraft subject to subsection (a) of this section may operate when its emergency locator transmitter has been removed for inspection, repair, alteration, or replacement.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1194.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44712(a)	49 App.:1421(d)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 601(d)(1); added Dec. 29, 1970, Pub. L. 91–596, § 31, 84 Stat. 1619; restated Jan. 2, 1974, Pub. L. 93–239, § 4, 87 Stat. 1048; Nov. 9, 1977, Pub. L. 95–163, § 15(a)(1), 91 Stat. 1283.
44712(b)	49 App.:1421(d)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 601(d)(2); added Dec. 29, 1970, Pub. L. 91–596, § 31, 84 Stat. 1619; restated Jan. 2, 1974, Pub. L. 93–239, § 4, 87 Stat. 1048.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
44712(c)	49 App.:1421(d)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §601(d)(3); added Nov. 9, 1977, Pub. L. 95–163, §15(a)(2), 91 Stat. 1283.

In subsection (a), the words ''Except with respect to aircraft described in paragraph (2) of this subsection and except as provided in paragraph (3) of this subsection'' are omitted as surplus. The words ''minimum standards pursuant to this section shall include a requirement that'', the text of 49 App.:1421(d)(1)(A), and the words ''after three years and six months following such date'' are omitted as executed.

In subsection (b), the word ''used'' is substituted for ''engaged'' for consistency. In clause (3), the word ''training'' is substituted for ''local flight'' for consistency. In clause (4), the words ''chemicals and other'' are omitted as surplus. In clause (5), the word ''purposes'' is omitted as surplus.

In subsection (c), the words ''prescribe regulations'' are substituted for ''shall issue regulations . . . as he prescribes in such regulations'' to eliminate unnecessary words. The words ''such limitations and'' and ''from such aircraft'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44701, 44711, 45302, 46310, 47531 of this title.

§ 44713. Inspection and maintenance

(a) GENERAL EQUIPMENT REQUIREMENTS.—An air carrier shall make, or cause to be made, any inspection, repair, or maintenance of equipment used in air transportation as required by this part or regulations prescribed or orders issued by the Administrator of the Federal Aviation Administration under this part. A person operating, inspecting, repairing, or maintaining the equipment shall comply with those requirements, regulations, and orders.

(b) DUTIES OF INSPECTORS.—The Administrator of the Federal Aviation Administration shall employ inspectors who shall—

(1) inspect aircraft, aircraft engines, propellers, and appliances designed for use in air transportation, during manufacture and when in use by an air carrier in air transportation, to enable the Administrator to decide whether the aircraft, aircraft engines, propellers, or appliances are in safe condition and maintained properly; and

(2) advise and cooperate with the air carrier during that inspection and maintenance.

(c) UNSAFE AIRCRAFT, ENGINES, PROPELLERS, AND APPLIANCES.—When an inspector decides that an aircraft, aircraft engine, propeller, or appliance is not in condition for safe operation, the inspector shall notify the air carrier in the form and way prescribed by the Administrator of the Federal Aviation Administration. For 5 days after the carrier is notified, the aircraft, engine, propeller, or appliance may not be used in air transportation or in a way that endangers air transportation unless the Administrator or the inspector decides the aircraft, engine, propeller, or appliance is in condition for safe operation.

(d) MODIFICATIONS IN SYSTEM.—(1) The Administrator of the Federal Aviation Administration shall make modifications in the system for processing forms for major repairs or alterations to fuel tanks and fuel systems of aircraft not used to provide air transportation that are necessary to make the system more effective in serving the needs of users of the system, including officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)). The modifications shall address at least each of the following deficiencies in, and abuses of, the existing system:

(A) the lack of a special identification feature to allow the forms to be distinguished easily from other major repair and alteration forms.

(B) the excessive period of time required to receive the forms at the Airmen and Aircraft Registry of the Administration.

(C) the backlog of forms waiting for processing at the Registry.

(D) the lack of ready access by law enforcement officials to information contained on the forms.

(2) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out paragraph (1) of this subsection and provide a written explanation of how the regulations address each of the deficiencies and abuses described in paragraph (1). In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Commissioner of Customs, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

(e) AUTOMATED SURVEILLANCE TARGETING SYSTEMS.—

(1) IN GENERAL.—The Administrator shall give high priority to developing and deploying a fully enhanced safety performance analysis system that includes automated surveillance to assist the Administrator in prioritizing and targeting surveillance and inspection activities of the Federal Aviation Administration.

(2) DEADLINES FOR DEPLOYMENT.—

(A) INITIAL PHASE.—The initial phase of the operational deployment of the system developed under this subsection shall begin not later than December 31, 1997.

(B) FINAL PHASE.—The final phase of field deployment of the system developed under this subsection shall begin not later than December 31, 1999. By that date, all principal operations and maintenance inspectors of the Administration, and appropriate supervisors and analysts of the Administration shall have been provided access to the necessary information and resources to carry out the system.

(3) INTEGRATION OF INFORMATION.—In developing the system under this section, the Administration shall consider the near-term in-

tegration of accident and incident data into the safety performance analysis system under this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1194; Pub. L. 104–264, title IV, § 407(b), Oct. 9, 1996, 110 Stat. 3258.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44713(a)	49 App.:1425(a).	Aug. 23, 1958, Pub. L. 85–726, § 605(a), (b), 72 Stat. 778.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
44713(b)	49 App.:1425(b) (1st sentence).	
	49 App.:1655(c)(1).	
44713(c)	49 App.:1425(b) (last sentence).	
	49 App.:1655(c)(1).	
44713(d)(1) ..	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7214, 102 Stat. 4434.
	49 App.:1425(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 605(c); added Nov. 18, 1988, Pub. L. 100–690, § 7206(a), 102 Stat. 4426.
44713(d)(2) ..	49 App.:1401 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7207(a) (1st sentence), (b), 102 Stat. 4427.

In subsections (a)–(c), the word ''Administrator'' in section 605(a) and (b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 778) is retained on authority of 49:106(g).

In subsection (a), the word ''overhaul'' is omitted as being included in ''repair''. The word ''prescribed'' is added for consistency in the revised title and with other titles of the United States Code. The words ''A person operating, inspecting, overhauling, or maintaining the equipment shall comply with those requirements, regulations, and orders'' are substituted for 49 App.:1425(a) (last sentence) to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''be charged with the duty . . . of'' are omitted as surplus. In clause (1), the words ''in use'' are substituted for ''used by an air carrier in air transportation'' to eliminate unnecessary words. The words ''as may be necessary'' and ''for operation in air transportation'' are omitted as surplus.

In subsection (c), the words ''in the performance of his duty'', ''used or intended to be used by any air carrier in air transportation'', and ''a period of'' are omitted as surplus.

In subsection (d)(1), before clause (A), the words ''not used to provide air transportation'' are substituted for section 7214 of the Anti-Drug Abuse Act of 1988 (Public Law 100–690, 102 Stat. 4434) because of the restatement.

In subsection (d)(2), the words ''Not later than September 18, 1989'' and ''final'' are omitted as obsolete. The words ''Administrator of Drug Enforcement'' are substituted for ''Drug Enforcement Administration of the Department of Justice'' because of section 5(a) of Reorganization Plan No. 2 of 1973 (eff. July 1, 1973, 87 Stat. 1092). The words ''Commissioner of Customs'' are substituted for ''United States Customs Service'' because of 19:2071.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–264 added subsec. (e).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44701, 44711, 45302, 46310, 47531 of this title.

§ 44714. Aviation fuel standards

The Administrator of the Federal Aviation Administration shall prescribe—

(1) standards for the composition or chemical or physical properties of an aircraft fuel or fuel additive to control or eliminate aircraft emissions the Administrator of the Environmental Protection Agency decides under section 231 of the Clean Air Act (42 U.S.C. 7571) endanger the public health or welfare; and

(2) regulations providing for carrying out and enforcing those standards.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1195.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44714	49 App.:1421(e).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 601(e); added Dec. 31, 1970, Pub. L. 91–604, § 11(b)(1), 84 Stat. 1705; Nov. 9, 1977, Pub. L. 95–163, § 15(b)(1), 91 Stat. 1283.

In this section, before clause (1), the words ''and from time to time revise'' are omitted as surplus. In clause (1), the words ''establishing'' and ''the purpose of'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44701, 44711, 45302, 46310, 47531 of this title.

§ 44715. Controlling aircraft noise and sonic boom

(a) STANDARDS AND REGULATIONS.—(1)(A) To relieve and protect the public health and welfare from aircraft noise and sonic boom, the Administrator of the Federal Aviation Administration, as he deems necessary, shall prescribe—

(i) standards to measure aircraft noise and sonic boom; and

(ii) regulations to control and abate aircraft noise and sonic boom.

(B) The Administrator, as the Administrator deems appropriate, shall provide for the participation of a representative of the Environmental Protection Agency on such advisory committees or associated working groups that advise the Administrator on matters related to the environmental effects of aircraft and aircraft engines.

(2) The Administrator of the Federal Aviation Administration may prescribe standards and regulations under this subsection only after consulting with the Administrator of the Environmental Protection Agency. The standards and regulations shall be applied when issuing, amending, modifying, suspending, or revoking a certificate authorized under this chapter.

(3) An original type certificate may be issued under section 44704(a) of this title for an aircraft for which substantial noise abatement can be achieved only after the Administrator of the Federal Aviation Administration prescribes standards and regulations under this section that apply to that aircraft.

(b) CONSIDERATIONS AND CONSULTATION.—When prescribing a standard or regulation under this section, the Administrator of the Federal Aviation Administration shall—

(1) consider relevant information related to aircraft noise and sonic boom;

(2) consult with appropriate departments, agencies, and instrumentalities of the United States Government and State and interstate authorities;

(3) consider whether the standard or regulation is consistent with the highest degree of safety in air transportation or air commerce in the public interest;

(4) consider whether the standard or regulation is economically reasonable, technologically practicable, and appropriate for the applicable aircraft, aircraft engine, appliance, or certificate; and

(5) consider the extent to which the standard or regulation will carry out the purposes of this section.

(c) PROPOSED REGULATIONS OF ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY.—The Administrator of the Environmental Protection Agency shall submit to the Administrator of the Federal Aviation Administration proposed regulations to control and abate aircraft noise and sonic boom (including control and abatement through the use of the authority of the Administrator of the Federal Aviation Administration) that the Administrator of the Environmental Protection Agency considers necessary to protect the public health and welfare. The Administrator of the Federal Aviation Administration shall consider those proposed regulations and shall publish them in a notice of proposed regulations not later than 30 days after they are received. Not later than 60 days after publication, the Administrator of the Federal Aviation Administration shall begin a hearing at which interested persons are given an opportunity for oral and written presentations. Not later than 90 days after the hearing is completed and after consulting with the Administrator of the Environmental Protection Agency, the Administrator of the Federal Aviation Administration shall—

(1) prescribe regulations as provided by this section—

(A) substantially the same as the proposed regulations submitted by the Administrator of the Environmental Protection Agency; or

(B) that amend the proposed regulations; or

(2) publish in the Federal Register—

(A) a notice that no regulation is being prescribed in response to the proposed regulations of the Administrator of the Environmental Protection Agency;

(B) a detailed analysis of, and response to, all information the Administrator of the Environmental Protection Agency submitted with the proposed regulations; and

(C) a detailed explanation of why no regulation is being prescribed.

(d) CONSULTATION AND REPORTS.—(1) If the Administrator of the Environmental Protection Agency believes that the action of the Administrator of the Federal Aviation Administration under subsection (c)(1)(B) or (2) of this section does not protect the public health and welfare from aircraft noise or sonic boom, consistent with the considerations in subsection (b) of this section, the Administrator of the Environmental Protection Agency shall consult with the Administrator of the Federal Aviation Administration and may request a report on the advisability of prescribing the regulation as originally proposed. The request, including a detailed statement of the information on which the request is based, shall be published in the Federal Register.

(2) The Administrator of the Federal Aviation Administration shall report to the Administrator of the Environmental Protection Agency within the time, if any, specified in the request. However, the time specified must be at least 90 days after the date of the request. The report shall—

(A) be accompanied by a detailed statement of the findings of the Administrator of the Federal Aviation Administration and the reasons for the findings;

(B) identify any statement related to an action under subsection (c) of this section filed under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));

(C) specify whether and where that statement is available for public inspection; and

(D) be published in the Federal Register unless the request proposes specific action by the Administrator of the Federal Aviation Administration and the report indicates that action will be taken.

(e) SUPPLEMENTAL REPORTS.—The Administrator of the Environmental Protection Agency may request the Administrator of the Federal Aviation Administration to file a supplemental report if the report under subsection (d) of this section indicates that the proposed regulations under subsection (c) of this section, for which a statement under section 102(2)(C) of the Act (42 U.S.C. 4332(2)(C)) is not required, should not be prescribed. The supplemental report shall be published in the Federal Register within the time the Administrator of the Environmental Protection Agency specifies. However, the time specified must be at least 90 days after the date of the request. The supplemental report shall contain a comparison of the environmental effects, including those that cannot be avoided, of the action of the Administrator of the Federal Aviation Administration and the proposed regulations of the Administrator of the Environmental Protection Agency.

(f) EXEMPTIONS.—An exemption from a standard or regulation prescribed under this section may be granted only if, before granting the exemption, the Administrator of the Federal Aviation Administration consults with the Administrator of the Environmental Protection Agency. However, if the Administrator of the Federal Aviation Administration finds that safety in air transportation or air commerce requires an exemption before the Administrator of the Environmental Protection Agency can be consulted, the exemption may be granted. The Administrator of the Federal Aviation Administration shall consult with the Administrator of the En-

vironmental Protection Agency as soon as practicable after the exemption is granted.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1196; Pub. L. 104–264, title IV, § 406(a), Oct. 9, 1996, 110 Stat. 3257.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44715(a)(1), (2).	49 App.:1431(a), (b)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 611(a), (b), (d); added July 21, 1968, Pub. L. 90–411, § 1, 82 Stat. 395; restated Oct. 27, 1972, Pub. L. 92–574, § 7(b), 86 Stat. 1239, 1241.
44715(a)(3) ..	49 App.:1431(b)(2).	
44715(b)	49 App.:1431(d).	
44715(c)	49 App.:1431(c)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 611(c); added July 21, 1968, Pub. L. 90–411, § 1, 82 Stat. 395; restated Oct. 27, 1972, Pub. L. 92–574, § 7(b), 86 Stat. 1240; Nov. 8, 1978, Pub. L. 95–609, § 3, 92 Stat. 3080.
44715(d)	49 App.:1431(c)(2).	
44715(e)	49 App.:1431(c)(3).	
44715(f)	49 App.:1431(b)(1) (last sentence).	

In subsection (a)(1), before clause (A), the text of 49 App.:1431(a) is omitted because the revised section identifies the appropriate Administrator each time the Administrator is mentioned. The words ''present and future'' and ''and amend'' are omitted as surplus. In clause (B), the words ''as the FAA may find necessary to provide'' are omitted as surplus.

In subsection (a)(2), the word ''only'' is added for clarity.

Subsection (a)(3) is substituted for 49 App.:1431(b)(2) to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''and amending'' are omitted as surplus. In clause (1), the words ''available . . . including the results of research, development, testing, and evaluation activities conducted pursuant to this chapter and the Department of Transportation Act'' are omitted as surplus. In clause (2), the words ''departments, agencies, and instrumentalities of the United States Government and State and interstate authorities'' are substituted for ''Federal, State, and interstate agencies'' for consistency in the revised title and with other titles of the United States Code. The words ''as he deems'' are omitted as surplus. In clauses (3) and (4), the word ''proposed'' is omitted as surplus. In clause (4), the word ''applicable'' is substituted for ''particular type of . . . to which it will apply'' to eliminate unnecessary words. In clause (5), the words ''contribute to'' are omitted as surplus.

In subsection (c), before clause (1), the words ''Not earlier than the date of submission of the report required by section 4906 of title 42'' are omitted as executed. The words ''regulatory . . . over air commerce or transportation or over aircraft or airport operations'' and ''submitted by the EPA under this paragraph'' are omitted as surplus. The word ''regulations'' is substituted for ''rulemaking'' for consistency in the revised title. The words ''after they are received'' are substituted for ''of the date of its submission to the FAA'' to eliminate unnecessary words. The words ''of data, views, and arguments'' are omitted as surplus. In clause (1), the words ''in accordance with subsection (b) of this section'' are omitted because of the restatement. In clause (2)(B), the words ''documentation or other'' are omitted as surplus.

In subsection (d)(1), the words ''listed'' and ''the FAA to review, and . . . to EPA . . . by EPA'' are omitted as surplus.

In subsection (d)(2), before clause (A), the words ''shall complete the review requested and'' are omitted as surplus. In clause (B), the words ''of the FAA'' are omitted as surplus.

In subsection (e), the words ''actually taken . . . in response to EPA's proposed regulations'' are omitted as surplus.

In subsection (f), the words ''under any provision of this chapter'' and ''that . . . be granted'' are omitted as surplus. The words ''the exemption may be granted'' are added for clarity.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–264, which in directing the general amendment of par. (1) inserted an additional subsec. (a) designation and heading identical to the existing subsec. heading as well as restating the text of par. (1), was executed by restating the text only to reflect the probable intent of Congress. Prior to amendment, par. (1) read as follows: ''To relieve and protect the public health and welfare from aircraft noise and sonic boom, the Administrator of the Federal Aviation Administration shall prescribe—

''(A) standards to measure aircraft noise and sonic boom; and

''(B) regulations to control and abate aircraft noise and sonic boom.''

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44701, 44709, 44711, 45302, 46310, 47531 of this title; title 42 sections 4903, 4911, 4913, 4915.

§ 44716. Collision avoidance systems

(a) DEVELOPMENT AND CERTIFICATION.—The Administrator of the Federal Aviation Administration shall—

(1) complete the development of the collision avoidance system known as TCAS–II so that TCAS–II can operate under visual and instrument flight rules and can be upgraded to the performance standards applicable to the collision avoidance system known as TCAS–III;

(2) develop and carry out a schedule for developing and certifying TCAS–II that will result in certification not later than June 30, 1989; and

(3) submit to Congress monthly reports on the progress being made in developing and certifying TCAS–II.

(b) INSTALLATION AND OPERATION.—The Administrator shall require by regulation that, not later than 30 months after the date certification is made under subsection (a)(2) of this section, TCAS–II be installed and operated on each civil aircraft that has a maximum passenger capacity of at least 31 seats and is used to provide air transportation of passengers, including intrastate air transportation of passengers. The Administrator may extend the deadline in this subsection for not more than 2 years if the Administrator finds the extension is necessary to promote—

(1) a safe and orderly transition to the operation of a fleet of civil aircraft described in this subsection equipped with TCAS–II; or

(2) other safety objectives.

(c) OPERATIONAL EVALUATION.—Not later than December 30, 1990, the Administrator shall es-

tablish a one-year program to collect and assess safety and operational information from civil aircraft equipped with TCAS–II for the operational evaluation of TCAS–II. The Administrator shall encourage foreign air carriers that operate civil aircraft equipped with TCAS–II to participate in the program.

(d) AMENDING SCHEDULE FOR WINDSHEAR EQUIPMENT.—The Administrator shall consider the feasibility and desirability of amending the schedule for installing airborne low-altitude windshear equipment to make the schedule compatible with the schedule for installing TCAS–II.

(e) DEADLINE FOR DEVELOPMENT AND CERTIFICATION.—(1) The Administrator shall complete developing and certifying TCAS–III as soon as possible.

(2) Necessary amounts may be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to carry out this subsection.

(f) INSTALLING AND USING TRANSPONDERS.—The Administrator shall prescribe regulations requiring that, not later than December 30, 1990, operating transponders with automatic altitude reporting capability be installed and used for aircraft operating in designated terminal airspace where radar service is provided for separation of aircraft. The Administrator may provide for access to that airspace (except terminal control areas and airport radar service areas) by nonequipped aircraft if the Administrator finds the access will not interfere with the normal traffic flow.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1198.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44716(a)	49 App.:1421(f)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §601(f); added Dec. 30, 1987, Pub. L. 100–223, §203(b), 101 Stat. 1518; Dec. 15, 1989, Pub. L. 101–236, §2, 103 Stat. 2060.
44716(b)	49 App.:1421(f)(2), (4).	
44716(c)	49 App.:1421(f)(3).	
44716(d)	49 App.:1421(f)(5).	
44716(e)	49 App.:1421 (note).	Dec. 30, 1987, Pub. L. 100–223, §203(d), 101 Stat. 1519.
44716(f)	49 App.:1421(f)(6).	

In subsection (c), the words ''In conducting the program'' are omitted as surplus.

In subsection (e)(1), the word ''research'' is omitted as included in ''developing''.

In subsection (e)(2), the words ''established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502)'' are added for consistency in the revised title.

In subsection (f), the words ''Not later than 6 months after December 30, 1987, the Administrator shall promulgate a final rule'' and ''Such final rule'' are omitted as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44701, 44711, 45302, 46310, 47531 of this title.

§ 44717. Aging aircraft

(a) INSPECTIONS AND REVIEWS.—The Administrator of the Federal Aviation Administration shall prescribe regulations that ensure the continuing airworthiness of aging aircraft. The regulations prescribed under subsection (a) of this section—

(1) at least shall require the Administrator to make inspections, and review the maintenance and other records, of each aircraft an air carrier uses to provide air transportation that the Administrator decides may be necessary to enable the Administrator to decide whether the aircraft is in safe condition and maintained properly for operation in air transportation;

(2) at least shall require an air carrier to demonstrate to the Administrator, as part of the inspection, that maintenance of the aircraft's age-sensitive parts and components has been adequate and timely enough to ensure the highest degree of safety;

(3) shall require the air carrier to make available to the Administrator the aircraft and any records about the aircraft that the Administrator requires to carry out a review; and

(4) shall establish procedures to be followed in carrying out an inspection.

(b) WHEN AND HOW INSPECTIONS AND REVIEWS SHALL BE CARRIED OUT.—(1) Inspections and reviews required under subsection (a)(1) of this section shall be carried out as part of each heavy maintenance check of the aircraft conducted after the 14th year in which the aircraft has been in service.

(2) Inspections under subsection (a)(1) of this section shall be carried out as provided under section 44701(a)(2)(B) and (C) of this title.

(c) AIRCRAFT MAINTENANCE SAFETY PROGRAMS.—The Administrator shall establish—

(1) a program to verify that air carriers are maintaining their aircraft according to maintenance programs approved by the Administrator;

(2) a program—

(A) to provide inspectors and engineers of the Administration with training necessary to conduct auditing inspections of aircraft operated by air carriers for corrosion and metal fatigue; and

(B) to enhance participation of those inspectors and engineers in those inspections; and

(3) a program to ensure that air carriers demonstrate to the Administrator their commitment and technical competence to ensure the airworthiness of aircraft that the carriers operate.

(d) FOREIGN AIR TRANSPORTATION.—(1) The Administrator shall take all possible steps to encourage governments of foreign countries and relevant international organizations to develop standards and requirements for inspections and reviews that—

(A) will ensure the continuing airworthiness of aging aircraft used by foreign air carriers to provide foreign air transportation to and from the United States; and

(B) will provide passengers of those foreign air carriers with the same level of safety that will be provided passengers of air carriers by carrying out this section.

(2) Not later than September 30, 1994, the Administrator shall report to Congress on carrying out this subsection.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1199.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44717(a)	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102–143, §§ 402(a), (b)(1), (c)–(e), 405, 105 Stat. 951, 952.
44717(b)	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102–143, § 402(b)(2), (3), 105 Stat. 951.
44717(c)	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102–143, § 403, 105 Stat. 952.
44717(d)	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102–143, § 404, 105 Stat. 952.

In subsections (a) and (c), before clause (1), the words ''Not later than 180 days after the date of the enactment of this title'' are omitted as obsolete.

In subsection (a), before clause (1), the text of section 405 of the Department of Transportation and Related Agencies Appropriations Act, 1992 (Public Law 102–143, 105 Stat. 952) is omitted as surplus because the complete name of the Administrator of the Federal Aviation Administration is used the first time the term appears in a section. The word ''regulations'' is substituted for ''rule'' because the terms are synonymous. In clauses (2)–(4), the words ''required by the rule'' are omitted as surplus. In clause (2), the words ''structure, skin, and other'' are omitted as surplus. In clause (3), the words ''inspection, maintenance, and other'' are omitted as surplus.

In subsection (c)(1), the word ''Administrator'' is substituted for ''Federal Aviation Administration'' for consistency in the revised title.

In subsection (d)(1), before clause (A), the words ''governments of foreign countries'' are substituted for ''foreign governments'' for consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 46301 of this title.

§ 44718. Structures interfering with air commerce

(a) NOTICE.—By regulation or by order when necessary, the Secretary of Transportation shall require a person to give adequate public notice, in the form and way the Secretary prescribes, of the construction, alteration, establishment, or expansion, or the proposed construction, alteration, establishment, or expansion, of a structure or sanitary landfill when the notice will promote—

(1) safety in air commerce; and

(2) the efficient use and preservation of the navigable airspace and of airport traffic capacity at public-use airports.

(b) STUDIES.—(1) Under regulations prescribed by the Secretary, if the Secretary decides that constructing or altering a structure may result in an obstruction of the navigable airspace or an interference with air navigation facilities and equipment or the navigable airspace, the Secretary shall conduct an aeronautical study to decide the extent of any adverse impact on the safe and efficient use of the airspace, facilities, or equipment. In conducting the study, the Secretary shall consider factors relevant to the efficient and effective use of the navigable airspace, including—

(A) the impact on arrival, departure, and en route procedures for aircraft operating under visual flight rules;

(B) the impact on arrival, departure, and en route procedures for aircraft operating under instrument flight rules;

(C) the impact on existing public-use airports and aeronautical facilities;

(D) the impact on planned public-use airports and aeronautical facilities; and

(E) the cumulative impact resulting from the proposed construction or alteration of a structure when combined with the impact of other existing or proposed structures.

(2) On completing the study, the Secretary shall issue a report disclosing completely the extent of the adverse impact on the safe and efficient use of the navigable airspace that the Secretary finds will result from constructing or altering the structure.

(c) BROADCAST APPLICATIONS AND TOWER STUDIES.—In carrying out laws related to a broadcast application and conducting an aeronautical study related to broadcast towers, the Administrator of the Federal Aviation Administration and the Federal Communications Commission shall take action necessary to coordinate efficiently—

(1) the receipt and consideration of, and action on, the application; and

(2) the completion of any associated aeronautical study.

(d) LANDFILLS.—For the purposes of enhancing aviation safety, in a case in which 2 landfills have been proposed to be constructed or established within 6 miles of a commercial service airport with fewer than 50,000 enplanements per year, no person shall construct or establish either landfill if an official of the Federal Aviation Administration has stated in writing within the 3-year period ending on the date of the enactment of this subsection that 1 of the landfills would be incompatible with aircraft operations at the airport, unless the landfill is already active on such date of enactment or the airport operator agrees to the construction or establishment of the landfill.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1200; Pub. L. 104–264, title XII, § 1220(a), Oct. 9, 1996, 110 Stat. 3286.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44718(a)	49 App.:1501(a).	Aug. 23, 1958, Pub. L. 85–726, § 1101, 72 Stat. 797; restated Dec. 30, 1987, Pub. L. 100–223, § 206 (less (b)), 101 Stat. 1521; Oct. 31, 1992, Pub. L. 102–581, § 203(a), 106 Stat. 4890.
44718(b)	49 App.:1501(b).	
44718(c)	49 App.:1501(c).	

In subsection (a), before clause (1), the words ''(hereinafter in this section referred to as the 'Secretary')'' and ''where necessary'' are omitted as surplus.

In subsection (b)(1), before clause (A), the word ''thoroughly'' is omitted as surplus.

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (d), is the date of enactment of Pub. L. 104–264, which was approved Oct. 9, 1996.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–264 added subsec. (d).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 46301, 46316 of this title.

§ 44719. Standards for navigational aids

The Secretary of Transportation shall prescribe regulations on standards for installing navigational aids, including airport control towers. For each type of facility, the regulations shall consider at a minimum traffic density (number of aircraft operations without consideration of aircraft size), terrain and other obstacles to navigation, weather characteristics, passengers served, and potential aircraft operating efficiencies.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1201.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44719	49 App.:1348 (note).	Dec. 30, 1987, Pub. L. 100–223, §308, 101 Stat. 1526.

The words ''Not later than December 31, 1988'' are omitted as obsolete.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 46301 of this title.

§ 44720. Meteorological services

(a) RECOMMENDATIONS.—The Administrator of the Federal Aviation Administration shall make recommendations to the Secretary of Commerce on providing meteorological services necessary for the safe and efficient movement of aircraft in air commerce. In providing the services, the Secretary shall cooperate with the Administrator and give complete consideration to those recommendations.

(b) PROMOTING SAFETY AND EFFICIENCY.—To promote safety and efficiency in air navigation to the highest possible degree, the Secretary shall—

(1) observe, measure, investigate, and study atmospheric phenomena, and maintain meteorological stations and offices, that are necessary or best suited for finding out in advance information about probable weather conditions;

(2) provide reports to the Administrator to persons engaged in civil aeronautics that are designated by the Administrator and to other persons designated by the Secretary in a way and with a frequency that best will result in safety in, and facilitating, air navigation;

(3) cooperate with persons engaged in air commerce in meteorological services, maintain reciprocal arrangements with those persons in carrying out this clause, and collect and distribute weather reports available from aircraft in flight;

(4) maintain and coordinate international exchanges of meteorological information required for the safety and efficiency of air navigation;

(5) in cooperation with other departments, agencies, and instrumentalities of the United States Government, meteorological services of foreign countries, and persons engaged in air commerce, participate in developing an international basic meteorological reporting network, including the establishment, operation, and maintenance of reporting stations on the high seas, in polar regions, and in foreign countries;

(6) coordinate meteorological requirements in the United States to maintain standard observations, to promote efficient use of facilities, and to avoid duplication of services unless the duplication tends to promote the safety and efficiency of air navigation; and

(7) promote and develop meteorological science and foster and support research projects in meteorology through the use of private and governmental research facilities and provide for publishing the results of the projects unless publication would not be in the public interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1201.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44720(a)	49 App.:1351.	Aug. 23, 1958, Pub. L. 85–726, §§310, 803, 72 Stat. 751, 783.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44720(b)	49 App.:1463. 49 App.:1655(c)(1).	

In subsection (b), the title ''Secretary'' [of Commerce] is substituted for ''Chief of the Weather Bureau'' in section 803 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 783) because of sections 1 and 2 of Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318). Before clause (1), the words ''In order'' and ''in addition to any other functions or duties pertaining to weather information for other purposes'' are omitted as surplus. In clause (2), the words ''forecasts, warnings, and advices'' are omitted as being included in ''reports''. In clause (3), the words ''or employees thereof'' and ''establish and'' are omitted as surplus. The words ''with those persons'' are added for clarity. In clause (5), the words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''governmental agencies of the United States'' for consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 46301 of this title.

§ 44721. Aeronautical maps and charts

(a) PUBLICATION.—(1) The Administrator of the Federal Aviation Administration may arrange for the publication of aeronautical maps and charts necessary for the safe and efficient movement of aircraft in air navigation, using the facilities and assistance of departments, agencies, and instrumentalities of the United States Government as far as practicable.

(2) In carrying out paragraph (1) of this subsection, the Administrator shall update and ar-

range for the publication of clearly defined routes for navigating through a complex terminal airspace area and to and from an airport located in such an area, if the Administrator decides that publication of the routes would promote safety in air navigation. The routes shall be developed in consultation with pilots and other users of affected airports and shall be for the optional use of pilots operating under visual flight rules.

(b) INDEMNIFICATION.—The Government shall make an agreement to indemnify any person that publishes a map or chart for use in aeronautics from any part of a claim arising out of the depiction by the person on the map or chart of a defective or deficient flight procedure or airway if the flight procedure or airway was—

(1) prescribed by the Administrator;

(2) depicted accurately on the map or chart; and

(3) not obviously defective or deficient.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1202.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44721(a)(1) ..	49 App.:1348(b) (1st sentence cl. (3)).	Aug. 23, 1958, Pub. L. 85–726, §307(b) (1st sentence cl. (3)), 72 Stat. 750.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
44721(a)(2) ..	49 App.:1348(b) (3d, last sentences).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 749, §307(b) (3d, last sentences); added Oct. 31, 1992, Pub. L. 102–581, §125, 106 Stat. 4885.
44721(b)	49 App.:1519.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1118; added Dec. 19, 1985, Pub. L. 99–190, §328(a), 99 Stat. 1289.

In subsection (a)(1), the word ''Administrator'' in section 307(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 750) is retained on authority of 49:106(g). The words ''within the limits of available appropriations made by the Congress'' are omitted as surplus. The words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''existing agencies of the Government'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), before clause (1), the words ''Notwithstanding the provisions of section 1341 of title 31 or any other provision of law'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 46301 of this title.

§ 44722. Aircraft operations in winter conditions

The Administrator of the Federal Aviation Administration shall prescribe regulations requiring procedures to improve safety of aircraft operations during winter conditions. In deciding on the procedures to be required, the Administrator shall consider at least aircraft and air traffic control modifications, the availability of different types of deicing fluids (considering their efficacy and environmental limitations), the types of deicing equipment available, and the feasibility and desirability of establishing timeframes within which deicing must occur under certain types of inclement weather.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1202.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44722	49:1421 (note).	Oct. 31, 1992, Pub. L. 102–581, §124, 106 Stat. 4885.

The words ''Before November 1, 1992'' are omitted as obsolete. The words ''prescribe regulations requiring'' are substituted for ''require, by regulation'', and the words ''other factors the Administrator considers appropriate'' are substituted for ''among other things'', for consistency in the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 46301 of this title.

§ 44723. Annual report

Not later than January 1 of each year, the Secretary of Transportation shall submit to Congress a comprehensive report on the safety enforcement activities of the Federal Aviation Administration during the fiscal year ending the prior September 30th. The report shall include—

(1) a comparison of end-of-year staffing levels by operations, maintenance, and avionics inspector categories to staffing goals and a statement on how staffing standards were applied to make allocations between air carrier and general aviation operations, maintenance, and avionics inspectors;

(2) schedules showing the range of inspector experience by various inspector work force categories, and the number of inspectors in each of the categories who are considered fully qualified;

(3) schedules showing the number and percentage of inspectors who have received mandatory training by individual course, and the number of inspectors by work force categories, who have received all mandatory training;

(4) a description of the criteria used to set annual work programs, an explanation of how these criteria differ from criteria used in the prior fiscal year and how the annual work programs ensure compliance with appropriate regulations and safe operating practices;

(5) a comparison of actual inspections performed during the fiscal year to the annual work programs by field location and, for any field location completing less than 80 percent of its planned number of inspections, an explanation of why annual work program plans were not met;

(6) a statement of the adequacy of Administration internal management controls available to ensure that field managers comply with Administration policies and procedures, including those on inspector priorities, district office coordination, minimum inspection standards, and inspection followup;

(7) the status of efforts made by the Administration to update inspector guidance documents and regulations to include technological, management, and structural changes taking place in the aviation industry, including a listing of the backlog of all proposed regulatory amendments;

(8) a list of the specific operational measures of effectiveness used to evaluate—

(A) the progress in meeting program objectives;

(B) the quality of program delivery; and

(C) the nature of emerging safety problems;

(9) a schedule showing the number of civil penalty cases closed during the 2 prior fiscal years, including the total initial and final penalties imposed, the total number of dollars collected, the range of dollar amounts collected, the average case processing time, and the range of case processing time;

(10) a schedule showing the number of enforcement actions taken (except civil penalties) during the 2 prior fiscal years, including the total number of violations cited, and the number of cited violation cases closed by certificate suspensions, certificate revocations, warnings, and no action taken; and

(11) schedules showing the safety record of the aviation industry during the fiscal year for air carriers and general aviation, including—

(A) the number of inspections performed when deficiencies were identified compared with inspections when no deficiencies were found;

(B) the frequency of safety deficiencies for each air carrier; and

(C) an analysis based on data of the general status of air carrier and general aviation compliance with aviation regulations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1202.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44723	49:308 (note).	Dec. 22, 1987, Pub. L. 100–202, §317(a), 101 Stat. 1329–380. Sept. 30, 1988, Pub. L. 100–457, §317(a), 102 Stat. 2148.

In clauses (4) and (7), the word ''regulations'' is substituted for ''Federal regulations'' for consistency in the revised title.

In clause (5), the words ''by field location'' are substituted for ''disaggregated to the field locations'' for clarity.

In clause (8), before subclause (A), the words '' 'best proxies' standing between the ultimate goal of accident prevention and ongoing program activities'' are omitted as surplus.

In clause (9), the words ''penalties imposed'' are substituted for ''assessments'' for consistency in the revised title and with other titles of the United States Code.

In clause (11)(C), the words ''aviation regulations'' are substituted for ''Federal Aviation Regulations'' for consistency in the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 46301 of this title.

§ 44724. Manipulation of flight controls

(a) PROHIBITION.—No pilot in command of an aircraft may allow an individual who does not hold—

(1) a valid private pilots certificate issued by the Administrator of the Federal Aviation Administration under part 61 of title 14, Code of Federal Regulations; and

(2) the appropriate medical certificate issued by the Administrator under part 67 of such title,

to manipulate the controls of an aircraft if the pilot knows or should have known that the individual is attempting to set a record or engage in an aeronautical competition or aeronautical feat, as defined by the Administrator.

(b) REVOCATION OF AIRMEN CERTIFICATES.—The Administrator shall issue an order revoking a certificate issued to an airman under section 44703 of this title if the Administrator finds that while acting as a pilot in command of an aircraft, the airman has permitted another individual to manipulate the controls of the aircraft in violation of subsection (a).

(c) PILOT IN COMMAND DEFINED.—In this section, the term ''pilot in command'' has the meaning given such term by section 1.1 of title 14, Code of Federal Regulations.

(Added Pub. L. 104–264, title VI, §602(a)(1), Oct. 9, 1996, 110 Stat. 3263.)

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

CHAPTER 449—SECURITY

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AMENDMENTS

1996—Pub. L. 104–264, title III, §312(b), Oct. 9, 1996, 110 Stat. 3254, added item 44916.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 46301 of this title.

SUBCHAPTER I—REQUIREMENTS

§ 44901. Screening passengers and property

(a) GENERAL REQUIREMENTS.—The Administrator of the Federal Aviation Administration shall prescribe regulations requiring screening of all passengers and property that will be carried in a cabin of an aircraft in air transportation or intrastate air transportation. The screening must take place before boarding and be carried out by a weapon-detecting facility or procedure used or operated by an employee or agent of an air carrier, intrastate air carrier, or foreign air carrier.

(b) AMENDING REGULATIONS.—Notwithstanding subsection (a) of this section, the Administrator may amend a regulation prescribed under subsection (a) to require screening only to ensure security against criminal violence and aircraft piracy in air transportation and intrastate air transportation.

(c) EXEMPTIONS AND ADVISING CONGRESS ON REGULATIONS.—The Administrator—

(1) may exempt from this section air transportation operations, except scheduled passenger operations of an air carrier providing air transportation under a certificate issued under section 41102 of this title or a permit issued under section 41302 of this title; and

(2) shall advise Congress of a regulation to be prescribed under this section at least 30 days before the effective date of the regulation, unless the Administrator decides an emergency exists requiring the regulation to become effective in fewer than 30 days and notifies Congress of that decision.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1204.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44901(a)	49 App.:1356(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §315(a) (1st, 2d sentences, 3d sentence 19th–last words); added Aug. 5, 1974, Pub. L. 93–366, §202, 88 Stat. 415; Aug. 8, 1985, Pub. L. 99–83, §551(b)(1), 99 Stat. 225.
44901(b)	49 App.:1356(a) (2d sentence).	
44901(c)(1) ..	49 App.:1356(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §315(c); added Aug. 5, 1974, Pub. L. 93–366, §202, 88 Stat. 415; Nov. 16, 1990, Pub. L. 101–604, §102(a), 104 Stat. 3068.
44901(c)(2) ..	49 App.:1356(a) (3d sentence 19th–last words).	

In subsection (a), the words ''or continue in effect reasonable'', ''intended'', and ''the aircraft for such transportation'' are omitted as surplus.

In subsection (b), the words ''Notwithstanding subsection (a) of this section'' are added for clarity. The words ''One year after August 5, 1974, or after the effective date of such regulations, whichever is later'' are omitted as executed. The words ''alter or'', ''a continuation of'', ''the extent deemed necessary to'', and ''acts of'' are omitted as surplus.

In subsection (c)(1), the words ''in whole or in part'' and ''those'' are omitted as surplus. The word ''providing'' is substituted for ''engaging in'' for consistency in the revised title. The words ''interstate, overseas, or foreign'' are omitted because of the definition of ''air transportation'' in section 40102(a) of the revised title. The words ''of public convenience and necessity'', ''by the Civil Aeronautics Board'', ''foreign air carrier'', and ''by the Board'' are omitted as surplus.

In subsection (c)(2), the words ''or amendments thereto'' and ''or amendments'' are omitted as surplus.

INSTALLATION OF ADVANCED SECURITY EQUIPMENT; AGREEMENTS

Pub. L. 104–264, title III, §305(b), Oct. 9, 1996, 110 Stat. 3252, provided that: ''The Administrator is authorized to use noncompetitive or cooperative agreements with air carriers and airport authorities that provide for the Administrator to purchase and assist in installing advanced security equipment for the use of such entities.''

PASSENGER PROFILING

Pub. L. 104–264, title III, §307, Oct. 9, 1996, 110 Stat. 3253, provided that: ''The Administrator of the Federal Aviation Administration, the Secretary of Transportation, the intelligence community, and the law enforcement community should continue to assist air carriers in developing computer-assisted passenger profiling programs and other appropriate passenger profiling programs which should be used in conjunction with other security measures and technologies.''

AUTHORITY TO USE CERTAIN FUNDS FOR AIRPORT SECURITY PROGRAMS AND ACTIVITIES

Pub. L. 104–264, title III, §308, Oct. 9, 1996, 110 Stat. 3253, provided that:

''(a) IN GENERAL.—Notwithstanding any other provision of law, funds referred to in subsection (b) may be used for the improvement of facilities and the purchase and deployment of equipment to enhance and ensure the safety and security of passengers and other persons involved in air travel.

''(b) COVERED FUNDS.—The following funds may be used under subsection (a):

''(1) Project grants made under subchapter I of chapter 471 of title 49, United States Code.

''(2) Passenger facility fees collected under section 40117 of title 49, United States Code.''

INSTALLATION AND USE OF EXPLOSIVE DETECTION EQUIPMENT

Pub. L. 101–45, title I, June 30, 1989, 103 Stat. 110, provided in part that: ''Not later than thirty days after the date of the enactment of this Act [June 30, 1989], the Federal Aviation Administrator shall initiate action, including such rulemaking or other actions as necessary, to require the use of explosive detection equipment that meets minimum performance standards requiring application of technology equivalent to or better than thermal neutron analysis technology at such airports (whether located within or outside the United States) as the Administrator determines that the installation and use of such equipment is necessary to ensure the safety of air commerce. The Administrator shall complete these actions within sixty days of enactment of this Act''.

RESEARCH AND DEVELOPMENT OF IMPROVED AIRPORT SECURITY SYSTEMS

Pub. L. 100–649, §2(d), Nov. 10, 1988, 102 Stat. 3817, provided that: ''The Administrator of the Federal Aviation Administration shall conduct such research and development as may be necessary to improve the effectiveness of airport security metal detectors and airport security x-ray systems in detecting firearms that, during the 10-year period beginning on the effective date of this Act [see Effective Date of 1988 Amendment; Sunset Provision note set out under section 922 of Title 18, Crimes and Criminal Procedure], are subject to the prohibitions of section 922(p) of title 18, United States Code.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40109, 40119, 44902, 44915, 44936, 44938, 46314 of this title.

§ 44902. Refusal to transport passengers and property

(a) MANDATORY REFUSAL.—The Administrator of the Federal Aviation Administration shall prescribe regulations requiring an air carrier, intrastate air carrier, or foreign air carrier to refuse to transport—

(1) a passenger who does not consent to a search under section 44901(a) of this title establishing whether the passenger is carrying unlawfully a dangerous weapon, explosive, or other destructive substance; or

(2) property of a passenger who does not consent to a search of the property establishing whether the property unlawfully contains a dangerous weapon, explosive, or other destructive substance.

(b) PERMISSIVE REFUSAL.—Subject to regulations of the Administrator, an air carrier, intrastate air carrier, or foreign air carrier may refuse to transport a passenger or property the carrier decides is, or might be, inimical to safety.

(c) AGREEING TO CONSENT TO SEARCH.—An agreement to carry passengers or property in air transportation or intrastate air transportation by an air carrier, intrastate air carrier, or foreign air carrier is deemed to include an agreement that the passenger or property will not be carried if consent to search the passenger or property for a purpose referred to in this section is not given.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1204.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44902(a)	49 App.:1511(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1111; added Sept. 5, 1961, Pub. L. 87–197, § 4, 75 Stat. 467; restated Aug. 5, 1974, Pub. L. 93–366, § 204, 88 Stat. 418.
44902(b)	49 App.:1511(a) (last sentence).	
44902(c)	49 App.:1511(b).	

In this section, the word ''passenger'' is substituted for ''person'' for consistency in the revised title.

In subsection (a)(1), the words ''of his person'' are omitted as surplus.

In subsection (a)(2), the words ''or inspection'' are omitted as surplus.

In subsection (b), the words ''reasonable'' and ''also'' are omitted as surplus. The word ''rules'' is omitted as being synonymous with ''regulations''. The words ''the carrier decides is'' are substituted for ''when, in the opinion of the carrier, such transportation would'' to eliminate unnecessary words. The words ''of flight'' are omitted as surplus.

In subsection (c), the words ''for compensation or hire'' are omitted because of the definitions of ''air transportation'' and ''intrastate air transportation'' in section 40102(a) of the revised title. The word ''inspect'' is omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 46301, 46316 of this title.

§ 44903. Air transportation security

(a) DEFINITION.—In this section, ''law enforcement personnel'' means individuals—

(1) authorized to carry and use firearms;

(2) vested with the degree of the police power of arrest the Administrator of the Federal Aviation Administration considers necessary to carry out this section; and

(3) identifiable by appropriate indicia of authority.

(b) PROTECTION AGAINST VIOLENCE AND PIRACY.—The Administrator shall prescribe regulations to protect passengers and property on an aircraft operating in air transportation or intrastate air transportation against an act of criminal violence or aircraft piracy. When prescribing a regulation under this subsection, the Administrator shall—

(1) consult with the Secretary of Transportation, the Attorney General, the heads of other departments, agencies, and instrumentalities of the United States Government, and State and local authorities;

(2) consider whether a proposed regulation is consistent with—

(A) protecting passengers; and

(B) the public interest in promoting air transportation and intrastate air transportation;

(3) to the maximum extent practicable, require a uniform procedure for searching and detaining passengers and property to ensure—

(A) their safety; and

(B) courteous and efficient treatment by an air carrier, an agent or employee of an air carrier, and Government, State, and local law enforcement personnel carrying out this section; and

(4) consider the extent to which a proposed regulation will carry out this section.

(c) SECURITY PROGRAMS.—(1) The Administrator shall prescribe regulations under subsection (b) of this section that require each operator of an airport regularly serving an air carrier holding a certificate issued by the Secretary of Transportation to establish an air transportation security program that provides a law enforcement presence and capability at each of those airports that is adequate to ensure the safety of passengers. The regulations shall authorize the operator to use the services of qualified State, local, and private law enforcement personnel. When the Administrator decides, after being notified by an operator in the form the Administrator prescribes, that not enough qualified State, local, and private law enforcement personnel are available to carry out subsection (b), the Administrator may authorize the operator to use, on a reimbursable basis, personnel employed by the Administrator, or by another department, agency, or instrumentality of the Government with the consent of the head of the department, agency, or instrumentality, to supplement State, local, and private law enforcement personnel. When deciding whether additional personnel are needed, the Administrator shall consider the number of passengers boarded at the airport, the extent of anticipated risk of criminal violence or aircraft piracy at the airport or to the air carrier aircraft operations at the airport, and the availability of qualified State or local law enforcement personnel at the airport.

(2)(A) The Administrator may approve a security program of an airport operator, or an amendment in an existing program, that incorporates a security program of an airport tenant (except an air carrier separately complying with part 108 or 129 of title 14, Code of Federal Regulations) having access to a secured area of the airport, if the program or amendment incorporates—

(i) the measures the tenant will use, within the tenant's leased areas or areas designated for the tenant's exclusive use under an agreement with the airport operator, to carry out the security requirements imposed by the Administrator on the airport operator under the access control system requirements of section 107.14 of title 14, Code of Federal Regulations, or under other requirements of part 107 of title 14; and

(ii) the methods the airport operator will use to monitor and audit the tenant's compliance with the security requirements and provides that the tenant will be required to pay monetary penalties to the airport operator if the tenant fails to carry out a security requirement under a contractual provision or requirement imposed by the airport operator.

(B) If the Administrator approves a program or amendment described in subparagraph (A) of this paragraph, the airport operator may not be found to be in violation of a requirement of this subsection or subsection (b) of this section when the airport operator demonstrates that the tenant or an employee, permittee, or invitee of the tenant is responsible for the violation and that the airport operator has complied with all measures in its security program for securing compliance with its security program by the tenant.

(d) AUTHORIZING INDIVIDUALS TO CARRY FIREARMS AND MAKE ARRESTS.—With the approval of the Attorney General and the Secretary of State, the Secretary of Transportation may authorize an individual who carries out air transportation security duties—

(1) to carry firearms; and

(2) to make arrests without warrant for an offense against the United States committed in the presence of the individual or for a felony under the laws of the United States, if the individual reasonably believes the individual to be arrested has committed or is committing a felony.

(e) EXCLUSIVE RESPONSIBILITY OVER PASSENGER SAFETY.—The Administrator has the exclusive responsibility to direct law enforcement activity related to the safety of passengers on an aircraft involved in an offense under section 46502 of this title from the moment all external doors of the aircraft are closed following boarding until those doors are opened to allow passengers to leave the aircraft. When requested by the Administrator, other departments, agencies, and instrumentalities of the Government shall provide assistance necessary to carry out this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1205.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44903(a)	49 App.:1357(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(a), (b), (e)(2), (3), (f); added Aug. 5, 1974, Pub. L. 93–366, §202, 88 Stat. 415, 417.
44903(b)	49 App.:1357(a).	
44903(c)(1) ..	49 App.:1357(b).	
44903(c)(2) ..	49 App.:1357(g).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(g); added Aug. 15, 1990, Pub. L. 101–370, §2, 104 Stat. 451.
44903(d)	49 App.:1356b.	Aug. 8, 1985, Pub. L. 99–83, §553(b), 99 Stat. 226.
44903(e)	49 App.:1357(e)(2), (3).	

In this section, the word ''passengers'' is substituted for ''persons'' for consistency in the revised title.

In subsection (a)(2), the words ''the degree of'' are substituted for ''such'' for clarity.

In subsection (b), before clause (1), the word ''rules'' is omitted as being synonymous with ''regulations''. The words ''such reasonable . . . requiring such practices, methods, and procedures, or governing the design, materials, and construction of aircraft, as he may deem necessary'' are omitted as surplus. The word ''air'' after ''intrastate'' is added for clarity and consistency. The words ''and amending'' are omitted as surplus. In clause (1), the words ''the heads of other departments, agencies, and instrumentalities of the United States Government, and State and local authorities'' are substituted for ''such other Federal, State, and local agencies'' for consistency in the revised title and with other titles of the United States Code. The words ''as he may deem appropriate'' are omitted as surplus. In clause (2)(A), the words ''in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy'' are omitted as surplus. In clause (3), before subclause (A), the words ''inspection'' and ''in air transportation and intrastate air transportation'' are omitted as surplus. In subclause (B), the words ''that they will receive'' and ''any air transportation security program established under'' are omitted as surplus. In clause (4), the words ''contribute to . . . the purposes of'' are omitted as surplus.

In subsection (c)(1), the words ''traveling in air transportation or intrastate air transportation from acts of criminal violence and aircraft piracy'' and ''whose services are made available by their employers'' are omitted as surplus. The words ''department, agency, or instrumentality of the Government'' are substituted for ''Federal department or agency'' for consistency in the revised title and with other titles of the Code. The word ''When'' is substituted for ''In any case in which'' to eliminate unnecessary words. The words ''receipt of'', ''by order'', ''the services of'', ''directly'', and ''at the airport concerned in such numbers and for such period of time as the Administrator may deem necessary'' are omitted as surplus. The words ''When deciding whether additional personnel are needed'' are substituted for ''In making the determination referred to in the preceding sentence'' for clarity.

In subsection (c)(2)(A), before clause (i), the words ''under this section'' are omitted as surplus. The words ''or an amendment in an existing program'' are substituted for ''and may approve an amendment to a security program of an airport operator approved by the Administrator under subsection (b)'' to eliminate unnecessary words. In clause (ii), the word ''monetary'' is substituted for ''financial'' for consistency.

In subsection (e), the words ''Notwithstanding any other provisions of law'', ''the commission of'', ''considered'', and ''the moment when'' before ''such door'' are omitted as surplus. The words ''to allow passengers to leave'' are substituted for ''disembarkation'', and the words ''the aircraft'' are added, for clarity. The words ''departments, agencies, and instrumentalities of the Government'' are substituted for ''Federal departments

and agencies'' for consistency in the revised title and with other titles of the Code. The words ''as may be . . . the purposes of'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40109, 40119, 44915, 44935, 44937, 46301, 46314, 46316 of this title.

§ 44904. Domestic air transportation system security

(a) ASSESSING THREATS.—The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation jointly shall assess current and potential threats to the domestic air transportation system. The assessment shall include consideration of the extent to which there are individuals with the capability and intent to carry out terrorist or related unlawful acts against that system and the ways in which those individuals might carry out those acts. The Administrator and the Director jointly shall decide on and carry out the most effective method for continuous analysis and monitoring of security threats to that system.

(b) ASSESSING SECURITY.—In coordination with the Director, the Administrator shall carry out periodic threat and vulnerability assessments on security at each airport that is part of the domestic air transportation system. Each assessment shall include consideration of—

(1) the adequacy of security procedures related to the handling and transportation of checked baggage and cargo;

(2) space requirements for security personnel and equipment;

(3) separation of screened and unscreened passengers, baggage, and cargo;

(4) separation of the controlled and uncontrolled areas of airport facilities; and

(5) coordination of the activities of security personnel of the Administration, the United States Customs Service, the Immigration and Naturalization Service, and air carriers, and of other law enforcement personnel.

(c) IMPROVING SECURITY.—The Administrator shall take necessary actions to improve domestic air transportation security by correcting any deficiencies in that security discovered in the assessments, analyses, and monitoring carried out under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1207.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44904(a)	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, § 106(a), (b), 104 Stat. 3075.
44904(b)	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, § 106(c), 104 Stat. 3075.
44904(c)	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, § 106(e), 104 Stat. 3075.

In subsection (a), the words ''domestic air transportation system'' are substituted for ''domestic aviation system'' for consistency in this section.

In subsection (b), before clause (1), the word ''Director'' is substituted for ''Federal Bureau of Investigation'' because of 28:532. In clauses (1) and (3), the word ''mail'' is omitted as being included in ''cargo''.

In subsection (c), the word ''correcting'' is substituted for ''remedying'' for clarity.

REGULAR JOINT THREAT ASSESSMENTS

Pub. L. 104–264, title III, § 310, Oct. 9, 1996, 110 Stat. 3253, provided that: ''The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall carry out joint threat and vulnerability assessments on security every 3 years, or more frequently, as necessary, at each airport determined to be high risk.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44914, 44938, 46301, 46316 of this title.

§ 44905. Information about threats to civil aviation

(a) PROVIDING INFORMATION.—Under guidelines the Secretary of Transportation prescribes, an air carrier, airport operator, ticket agent, or individual employed by an air carrier, airport operator, or ticket agent, receiving information (except a communication directed by the United States Government) about a threat to civil aviation shall provide the information promptly to the Secretary.

(b) FLIGHT CANCELLATION.—If a decision is made that a particular threat cannot be addressed in a way adequate to ensure, to the extent feasible, the safety of passengers and crew of a particular flight or series of flights, the Administrator of the Federal Aviation Administration shall cancel the flight or series of flights.

(c) GUIDELINES ON PUBLIC NOTICE.—(1) The President shall develop guidelines for ensuring that public notice is provided in appropriate cases about threats to civil aviation. The guidelines shall identify officials responsible for—

(A) deciding, on a case-by-case basis, if public notice of a threat is in the best interest of the United States and the traveling public;

(B) ensuring that public notice is provided in a timely and effective way, including the use of a toll-free telephone number; and

(C) canceling the departure of a flight or series of flights under subsection (b) of this section.

(2) The guidelines shall provide for consideration of—

(A) the specificity of the threat;

(B) the credibility of intelligence information related to the threat;

(C) the ability to counter the threat effectively;

(D) the protection of intelligence information sources and methods;

(E) cancellation, by an air carrier or the Administrator, of a flight or series of flights instead of public notice;

(F) the ability of passengers and crew to take steps to reduce the risk to their safety after receiving public notice of a threat; and

(G) other factors the Administrator considers appropriate.

(d) GUIDELINES ON NOTICE TO CREWS.—The Administrator shall develop guidelines for ensuring that notice in appropriate cases of threats to the security of an air carrier flight is provided to the flight crew and cabin crew of that flight.

(e) LIMITATION ON NOTICE TO SELECTIVE TRAVELERS.—Notice of a threat to civil aviation may be provided to selective potential travelers only if the threat applies only to those travelers.

(f) RESTRICTING ACCESS TO INFORMATION.—In cooperation with the departments, agencies, and instrumentalities of the Government that collect, receive, and analyze intelligence information related to aviation security, the Administrator shall develop procedures to minimize the number of individuals who have access to information about threats. However, a restriction on access to that information may be imposed only if the restriction does not diminish the ability of the Government to carry out its duties and powers related to aviation security effectively, including providing notice to the public and flight and cabin crews under this section.

(g) DISTRIBUTION OF GUIDELINES.—The guidelines developed under this section shall be distributed for use by appropriate officials of the Department of Transportation, the Department of State, the Department of Justice, and air carriers.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1207.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44905(a)	49 App.:1358d(a).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §321; added Nov. 16, 1990, Pub. L. 101–604, §109(a), 104 Stat. 3078.
44905(b)	49 App.:1358d(b).	
44905(c)(1) ..	49 App.:1358d(c)(1), (d).	
44905(c)(2) ..	49 App.:1358d(e).	
44905(d)	49 App.:1358d(c)(2).	
44905(e)	49 App.:1358d(f).	
44905(f)	49 App.:1358d(h).	
44905(g)	49 App.:1358d(g).	

In subsection (a), the words ''employed by an air carrier, airport operator, or ticket agent'' are substituted for ''employed by such an entity'' for clarity. The words ''or a designee of the Secretary'' are omitted as unnecessary.

In subsections (c)(1), before clause (A), and (d), the words ''Not later than 180 days after November 16, 1990'' are omitted as obsolete.

In subsection (c)(1)(B), the words ''when considered appropriate'' are omitted as unnecessary because of the restatement.

In subsection (e), the words ''selective potential travelers'' are substituted for ''only selective potential travelers'' to eliminate an unnecessary word.

In subsection (f), the words ''departments, agencies, and instrumentalities of the Government'' are substituted for ''agencies'' for clarity and consistency in the revised title and with other titles of the United States Code. The words ''However, a restriction on access to that information may be imposed only if the restriction does not diminish'' are substituted for ''Any restriction adopted pursuant to this subsection shall not diminish'' for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 40119 of this title.

§ 44906. Foreign air carrier security programs

The Administrator of the Federal Aviation Administration shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that a foreign air carrier must adopt and use a security program approved by the Administrator. The Administrator shall not approve a security program of a foreign air carrier under section 129.25, or any successor regulation, unless the security program requires the foreign air carrier in its operations to and from airports in the United States to adhere to the identical security measures that the Administrator requires air carriers serving the same airports to adhere to. The foregoing requirement shall not be interpreted to limit the ability of the Administrator to impose additional security measures on a foreign air carrier or an air carrier when the Administrator determines that a specific threat warrants such additional measures. The Administrator shall prescribe regulations to carry out this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1208; Pub. L. 104–132, title III, §322, Apr. 24, 1996, 110 Stat. 1254.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44906(a)(1) ..	49 App.:1357(k)(1)–(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(k)(1)–(3); added Nov. 16, 1990, Pub. L. 101–604, §105(a), 104 Stat. 3074.
	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, §105(c), 104 Stat. 3075.

The text of 49 App.:1357(k)(3) and the words ''Not later than 180 days after the date of enactment of this Act'' in section 105(c) of the Aviation Security Improvement Act of 1990 (Public Law 101–674, 104 Stat. 3075) are omitted as obsolete.

AMENDMENTS

1996—Pub. L. 104–132 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''The Administrator of the Federal Aviation Administration shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that a foreign air carrier must adopt and use a security program approved by the Administrator. The Administrator may approve a security program of a foreign air carrier under section 129.25 only if the Administrator decides the security program provides passengers of the foreign air carrier a level of protection similar to the level those passengers would receive under the security programs of air carriers serving the same airport. The Administrator shall require a foreign air carrier to use procedures equivalent to those required of air carriers serving the same airport if the Administrator decides that the procedures are necessary to provide a level of protection similar to that provided passengers of the air carriers serving the same airport. The Administrator shall prescribe regulations to carry out this section.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40109, 44915, 44937, 44938, 46314 of this title.

§ 44907. Security standards at foreign airports

(a) ASSESSMENT.—(1) At intervals the Secretary of Transportation considers necessary, the Secretary shall assess the effectiveness of the security measures maintained at—

(A) a foreign airport—

(i) served by an air carrier;

(ii) from which a foreign air carrier serves the United States; or

(iii) that poses a high risk of introducing danger to international air travel; and

(B) other foreign airports the Secretary considers appropriate.

(2) The Secretary of Transportation shall conduct an assessment under paragraph (1) of this subsection—

(A) in consultation with appropriate aeronautic authorities of the government of a foreign country concerned and each air carrier serving the foreign airport for which the Secretary is conducting the assessment;

(B) to establish the extent to which a foreign airport effectively maintains and carries out security measures; and

(C) by using a standard that will result in an analysis of the security measures at the airport based at least on the standards and appropriate recommended practices contained in Annex 17 to the Convention on International Civil Aviation in effect on the date of the assessment.

(3) Each report to Congress required under section 44938(b) of this title shall contain a summary of the assessments conducted under this subsection.

(b) CONSULTATION.—In carrying out subsection (a) of this section, the Secretary of Transportation shall consult with the Secretary of State—

(1) on the terrorist threat that exists in each country; and

(2) to establish which foreign airports are not under the de facto control of the government of the foreign country in which they are located and pose a high risk of introducing danger to international air travel.

(c) NOTIFYING FOREIGN AUTHORITIES.—When the Secretary of Transportation, after conducting an assessment under subsection (a) of this section, decides that an airport does not maintain and carry out effective security measures, the Secretary of Transportation, after advising the Secretary of State, shall notify the appropriate authorities of the government of the foreign country of the decision and recommend the steps necessary to bring the security measures in use at the airport up to the standard used by the Secretary of Transportation in making the assessment.

(d) ACTIONS WHEN AIRPORTS NOT MAINTAINING AND CARRYING OUT EFFECTIVE SECURITY MEASURES.—(1) When the Secretary of Transportation decides under this section that an airport does not maintain and carry out effective security measures—

(A) the Secretary of Transportation shall—

(i) publish the identity of the airport in the Federal Register;

(ii) have the identity of the airport posted and displayed prominently at all United States airports at which scheduled air carrier operations are provided regularly; and

(iii) notify the news media of the identity of the airport;

(B) each air carrier and foreign air carrier providing transportation between the United States and the airport shall provide written notice of the decision, on or with the ticket, to each passenger buying a ticket for transportation between the United States and the airport;

(C) notwithstanding section 40105(b) of this title, the Secretary of Transportation, after consulting with the appropriate aeronautic authorities of the foreign country concerned and each air carrier serving the airport and with the approval of the Secretary of State, may withhold, revoke, or prescribe conditions on the operating authority of an air carrier or foreign air carrier that uses that airport to provide foreign air transportation; and

(D) the President may prohibit an air carrier or foreign air carrier from providing transportation between the United States and any other foreign airport that is served by aircraft flying to or from the airport with respect to which a decision is made under this section.

(2)(A) Paragraph (1) of this subsection becomes effective—

(i) 90 days after the government of a foreign country is notified under subsection (c) of this section if the Secretary of Transportation finds that the government has not brought the security measures at the airport up to the standard the Secretary used in making an assessment under subsection (a) of this section; or

(ii) immediately on the decision of the Secretary of Transportation under subsection (c) of this section if the Secretary of Transportation decides, after consulting with the Secretary of State, that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from the airport.

(B) The Secretary of Transportation immediately shall notify the Secretary of State of a decision under subparagraph (A)(ii) of this paragraph so that the Secretary of State may issue a travel advisory required under section 44908(a) of this title.

(3) The Secretary of Transportation promptly shall submit to Congress a report (and classified annex if necessary) on action taken under paragraph (1) or (2) of this subsection, including information on attempts made to obtain the cooperation of the government of a foreign country in meeting the standard the Secretary used in assessing the airport under subsection (a) of this section.

(4) An action required under paragraph (1)(A) and (B) of this subsection is no longer required only if the Secretary of Transportation, in consultation with the Secretary of State, decides that effective security measures are maintained and carried out at the airport. The Secretary of Transportation shall notify Congress when the action is no longer required to be taken.

(e) SUSPENSIONS.—Notwithstanding sections 40105(b) and 40106(b) of this title, the Secretary of Transportation, with the approval of the Secretary of State and without notice or a hearing, shall suspend the right of an air carrier or foreign air carrier to provide foreign air transportation, and the right of a person to operate aircraft in foreign air commerce, to or from a foreign airport when the Secretary of Transportation decides that—

(1) a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from that airport; and

(2) the public interest requires an immediate suspension of transportation between the United States and that airport.

(f) CONDITION OF CARRIER AUTHORITY.—This section is a condition to authority the Secretary of Transportation grants under this part to an air carrier or foreign air carrier.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1209.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44907(a)(1) ..	49 App.:1515(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1115(a), (b), (d)–(h); added Aug. 5, 1974, Pub. L. 93–366, §106, 88 Stat. 414; restated Aug. 8, 1985, Pub. L. 99–83, §551(a), 99 Stat. 222.
44907(a)(2) ..	49 App.:1515(a)(2), (3).	
44907(a)(3) ..	49 App.:1515(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1115(c); added Aug. 5, 1974, Pub. L. 93–366, §106, 88 Stat. 414; restated Aug. 8, 1985, Pub. L. 99–83, §551(a), 99 Stat. 222; Nov. 16, 1990, Pub. L. 101–604, §102(c)(2), 104 Stat. 3069.
44907(b)	49 App.:1515(b).	
44907(c)	49 App.:1515(d).	
44907(d)(1) ..	49 App.:1515(e)(2).	
44907(d)(2) ..	49 App.:1515(e)(1).	
44907(d)(3) ..	49 App.:1515(e)(3).	
44907(d)(4) ..	49 App.:1515(f).	
44907(e)	49 App.:1515(g).	
44907(f)	49 App.:1515(h).	

In subsections (a)(2)(A) and (d)(2)(A)(i) and (3), the words ''government of a foreign country'' are substituted for ''foreign government'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2)(B), the word ''foreign'' is added for clarity and consistency in this section.

In subsection (b)(2), the word ''foreign'' is added for consistency in the revised title and with other titles of the Code.

In subsection (c), the words ''government of a foreign country'' are substituted for ''foreign government'' for consistency in the revised title and with other titles of the Code.

In subsection (d)(1), before clause (A), the words ''Subject to paragraph (1)'' are omitted as surplus. In clause (C), the words ''foreign country'' are substituted for ''foreign government'' for clarity and consistency in the revised title and with other titles of the Code. The word ''prescribe'' is substituted for ''impose'' for consistency in the revised title and with other titles of the Code. The word ''provide'' is substituted for ''engage in'' for consistency in the revised title. In clause (D), the words ''directly or indirectly'' are omitted as surplus.

In subsection (d)(2)(A)(i), the words ''identified'' and ''of such airport'' are omitted as surplus.

In subsection (d)(2)(B), the words ''issue a travel advisory required under section 44908(a) of this title'' are substituted for ''comply with the requirement of section 1515(a) [sic] of this Appendix that a travel advisory be issued'' to eliminate unnecessary words.

In subsection (d)(4), the words ''An action required . . . is no longer required'' are substituted for ''The sanctions required to be imposed with respect to an airport . . . may be lifted'' to eliminate unnecessary words.

In subsection (e), before clause (1), the word ''provide'' is substituted for ''engage in'' for consistency in the revised title.

In subsection (f), the words ''issued under authority vested in'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44908, 44938, 46301, 46316 of this title.

§ 44908. Travel advisory and suspension of foreign assistance

(a) TRAVEL ADVISORIES.—On being notified by the Secretary of Transportation that the Secretary of Transportation has decided under section 44907(d)(2)(A)(ii) of this title that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from a foreign airport that the Secretary of Transportation has decided under section 44907 of this title does not maintain and carry out effective security measures, the Secretary of State—

(1) immediately shall issue a travel advisory for that airport;

(2) shall publish the advisory in the Federal Register; and

(3) shall publicize the advisory widely.

(b) SUSPENDING ASSISTANCE.—The President shall suspend assistance provided under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or the Arms Export Control Act (22 U.S.C. 2751 et seq.) to a country in which is located an airport with respect to which section 44907(d)(1) of this title becomes effective if the Secretary of State decides the country is a high terrorist threat country. The President may waive this subsection if the President decides, and reports to Congress, that the waiver is required because of national security interests or a humanitarian emergency.

(c) ACTIONS NO LONGER REQUIRED.—An action required under this section is no longer required only if the Secretary of Transportation has made a decision as provided under section 44907(d)(4) of this title. The Secretary shall notify Congress when the action is no longer required to be taken.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1211.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44908(a)	49 App.:1515a(a).	Aug. 8, 1985, Pub. L. 99–83, §552, 99 Stat. 226.
44908(b)	49 App.:1515a(b).	
44908(c)	49 App.:1515a(c), (d).	

In subsection (a)(3), the words ''take the necessary steps to'' are omitted as surplus.

In subsection (b), the words ''all'' and ''the requirements of'' are omitted as surplus.

Subsection (c) is substituted for 49 App.:1515a(c) and (d) to eliminate unnecessary words.

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (b), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

The Arms Export Control Act, referred to in subsec. (b), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (b) delegated to Secretary of State by section 1–201(a)(25) of Ex. Ord.

No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44907, 46301, 46316 of this title.

§ 44909. Passenger manifests

(a) AIR CARRIER REQUIREMENTS.—(1) Not later than March 16, 1991, the Secretary of Transportation shall require each air carrier to provide a passenger manifest for a flight to an appropriate representative of the Secretary of State—

(A) not later than one hour after that carrier is notified of an aviation disaster outside the United States involving that flight; or

(B) if it is not technologically feasible or reasonable to comply with clause (A) of this paragraph, then as expeditiously as possible, but not later than 3 hours after the carrier is so notified.

(2) The passenger manifest shall include the following information:

(A) the full name of each passenger.

(B) the passport number of each passenger, if required for travel.

(C) the name and telephone number of a contact for each passenger.

(3) In carrying out this subsection, the Secretary of Transportation shall consider the necessity and feasibility of requiring air carriers to collect passenger manifest information as a condition for passengers boarding a flight of the carrier.

(b) FOREIGN AIR CARRIER REQUIREMENTS.—The Secretary of Transportation shall consider imposing a requirement on foreign air carriers comparable to that imposed on air carriers under subsection (a)(1) and (2) of this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1211.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44909(a)(1) ..	49 App.:1380(a).	Aug. 23, 1958, Pub. L. 85–726, §410, 72 Stat. 769; Oct. 15, 1962, Pub. L. 87–820, §8, 76 Stat. 936; restated Nov. 16, 1990, Pub. L. 101–604, §203(a), 104 Stat. 3082.
44909(a)(2) ..	49 App.:1380(b).	
44909(a)(3) ..	49 App.:1380 (note).	Nov. 16, 1990, Pub. L. 101–604, §203(b), 104 Stat. 3082.
44909(b)	49 App.:1380 (note).	Nov. 16, 1990, Pub. L. 101–604, §203(c), 104 Stat. 3083.

In subsection (a)(1), before clause (A), the words ''each air carrier'' are substituted ''all United States air carriers'' because of the definition of ''air carrier'' in section 40102(a) of the revised title. The words ''an appropriate representative of the Secretary of State'' are substituted for ''appropriate representatives of the United States Department of State'' because of 22:2651 and for consistency in the revised title and with other titles of the United States Code. In clause (B), the words ''to comply with clause (A) of this paragraph'' are substituted for ''to fulfill the requirement of this subsection'' for consistency in the revised title and with other titles of the Code.

In subsection (a)(2), before clause (B), the words ''For purposes of this section'' are omitted as unnecessary.

In subsection (a)(3), the words ''In carrying out this subsection'' are substituted for ''In implementing the requirement pursuant to the amendment made by subsection (a) of this section'' for clarity and to eliminate unnecessary words.

In subsection (b), the word ''imposing'' is added for clarity. The words ''imposed on air carriers under subsection (a)(1) and (2) of this section'' are substituted for ''imposed pursuant to the amendment made by subsection (a)'' for clarity and because of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40109, 46301, 46316 of this title.

§ 44910. Agreements on aircraft sabotage, aircraft hijacking, and airport security

The Secretary of State shall seek multilateral and bilateral agreement on strengthening enforcement measures and standards for compliance related to aircraft sabotage, aircraft hijacking, and airport security.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1212.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44910	49 App.:1515 (note).	Aug. 8, 1985, Pub. L. 99–83, §556, 99 Stat. 227.

§ 44911. Intelligence

(a) DEFINITION.—In this section, ''intelligence community'' means the intelligence and intelligence-related activities of the following units of the United States Government:

(1) the Department of State.

(2) the Department of Defense.

(3) the Department of the Treasury.

(4) the Department of Energy.

(5) the Departments of the Army, Navy, and Air Force.

(6) the Central Intelligence Agency.

(7) the National Security Agency.

(8) the Defense Intelligence Agency.

(9) the Federal Bureau of Investigation.

(10) the Drug Enforcement Administration.

(b) POLICIES AND PROCEDURES ON REPORT AVAILABILITY.—The head of each unit in the intelligence community shall prescribe policies and procedures to ensure that intelligence reports about international terrorism are made available, as appropriate, to the heads of other units in the intelligence community, the Secretary of Transportation, and the Administrator of the Federal Aviation Administration.

(c) UNIT FOR STRATEGIC PLANNING ON TERRORISM.—The heads of the units in the intelligence community shall consider placing greater emphasis on strategic intelligence efforts by establishing a unit for strategic planning on terrorism.

(d) DESIGNATION OF INTELLIGENCE OFFICER.—At the request of the Secretary, the Director of Central Intelligence shall designate at least one intelligence officer of the Central Intelligence Agency to serve in a senior position in the Office of the Secretary.

(e) WRITTEN WORKING AGREEMENTS.—The heads of units in the intelligence community, the Secretary, and the Administrator shall review and, as appropriate, revise written working

agreements between the intelligence community and the Administrator.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1212.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44911(a)	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101–604, §111(e), 104 Stat. 3080.
44911(b)	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101–604, §111(a), 104 Stat. 3080.
44911(c)	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101–604, §111(b), 104 Stat. 3080.
44911(d)	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101–604, §111(c), 104 Stat. 3080.
44911(e)	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101–604, §111(d), 104 Stat. 3080.

In this section, the word ''units'' is substituted for ''agencies'' for consistency in the revised title and with other titles of the United States Code.

In subsections (b) and (e), the words ''Not later than 180 days after the date of enactment of this Act'' in section 111(a) and (d) of the Aviation Security Improvement Act of 1990 (Public Law 101–640, 104 Stat. 3080) are omitted as obsolete.

In subsection (b), the words ''the heads of other units in the intelligence community, the Secretary of Transportation, and the Administrator of the Federal Aviation Administration'' are substituted for ''other members of the intelligence community, the Department of Transportation, and the Federal Aviation Administration'' for clarity and consistency in the revised title and with other titles of the Code.

In subsections (c) and (e), the words ''heads of units in the intelligence community'' are substituted for ''intelligence community'' for clarity and consistency in the revised title and with other titles of the Code.

In subsection (e), the words ''memorandums of understanding'' are omitted as being included in ''written working agreements''.

§ 44912. Research and development

(a) PROGRAM REQUIREMENT.—(1) The Administrator of the Federal Aviation Administration shall establish and carry out a program to accelerate and expand the research, development, and implementation of technologies and procedures to counteract terrorist acts against civil aviation. The program shall provide for developing and having in place, not later than November 16, 1993, new equipment and procedures necessary to meet the technological challenges presented by terrorism. The program shall include research on, and development of, technological improvements and ways to enhance human performance.

(2) In designing and carrying out the program established under this subsection, the Administrator shall—

(A) consult and coordinate activities with other departments, agencies, and instrumentalities of the United States Government doing similar research;

(B) identify departments, agencies, and instrumentalities that would benefit from that research; and

(C) seek cost-sharing agreements with those departments, agencies, and instrumentalities.

(3) In carrying out the program established under this subsection, the Administrator shall review and consider the annual reports the Secretary of Transportation submits to Congress on transportation security and intelligence.

(4) The Administrator may—

(A) make grants to institutions of higher learning and other appropriate research facilities with demonstrated ability to carry out research described in paragraph (1) of this subsection, and fix the amounts and terms of the grants; and

(B) make cooperative agreements with governmental authorities the Administrator decides are appropriate.

(b) REVIEW OF THREATS.—(1) The Administrator shall complete an intensive review of threats to civil aviation, with particular focus on—

(A) explosive material that presents the most significant threat to civil aircraft;

(B) the minimum amounts, configurations, and types of explosive material that can cause, or would reasonably be expected to cause, catastrophic damage to commercial aircraft in service and expected to be in service in the 10-year period beginning on November 16, 1990;

(C) the amounts, configurations, and types of explosive material that can be detected reliably by existing, or reasonably anticipated, near-term explosive detection technologies;

(D) the feasibility of using various ways to minimize damage caused by explosive material that cannot be detected reliably by existing, or reasonably anticipated, near-term explosive detection technologies;

(E) the ability to screen passengers, carry-on baggage, checked baggage, and cargo; and

(F) the technologies that might be used in the future to attempt to destroy or otherwise threaten commercial aircraft and the way in which those technologies can be countered effectively.

(2) The Administrator shall use the results of the review under this subsection to develop the focus and priorities of the program established under subsection (a) of this section.

(c) SCIENTIFIC ADVISORY PANEL.—The Administrator shall establish a scientific advisory panel, as a subcommittee of the Research, Engineering and Development Advisory Committee, to review, comment on, advise on the progress of, and recommend modifications in, the program established under subsection (a) of this section, including the need for long-range research programs to detect and prevent catastrophic damage to commercial aircraft by the next generation of terrorist weapons. The panel shall consist of individuals with scientific and technical expertise in—

(1) the development and testing of effective explosive detection systems;

(2) aircraft structure and experimentation to decide on the type and minimum weights of explosives that an effective technology must be capable of detecting;

(3) technologies involved in minimizing airframe damage to aircraft from explosives; and

(4) other scientific and technical areas the Administrator considers appropriate.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1212.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44912(a)	49 App.:1357(d)(3)(A), (D), (4)–(7).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(d)(3)–(8); added Nov. 16, 1990, Pub. L. 101–604, § 107, 104 Stat. 3076.
44912(b)	49 App.:1357(d)(3)(B), (C).	
44912(c)	49 App.:1357(d)(8).	

In subsection (a)(1), the words ''It shall be the purpose of the program established under paragraph (3)'' and ''established under paragraph (3)'' are omitted as unnecessary.

In subsection (a)(2)(A), the word ''activities'' is added for clarity. The words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''Federal agencies'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(4), the words ''The Administrator may . . . make grants'' are substituted for ''Amounts appropriated for each fiscal year under paragraph (9) shall be made available by the Administrator, by way of grants'' to eliminate unnecessary words. In clause (A), the words ''institutions of higher learning'' are substituted for ''colleges, universities'', and the word ''institutions'' is substituted for ''institutions and facilities'', for clarity and consistency in the revised title and with other titles of the Code. In clause (B), the words ''governmental authorities'' are substituted for ''governmental entities'' for consistency in the revised title and with other titles of the Code.

In subsection (b)(1), before clause (A), the words ''Not later than 180 days after November 16, 1990'' are omitted as obsolete. Clause (B) is substituted for 49 App.:1357(d)(3)(B)(ii) and (iii) for clarity and to eliminate unnecessary words.

In subsection (b)(1)(E), the word ''mail'' is omitted as being included in ''cargo''.

TERMINATION OF ADVISORY PANELS

Advisory panels established after Jan. 5, 1973, to terminate not later than expiration of 2-year period beginning on the date of their establishment, unless, in the case of a panel established by the President or an officer of the Federal Government, such panel is renewed by appropriate action prior to expiration of such 2-year period, or in the case of a panel established by Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40119, 44501, 44508, 44937, 48107 of this title.

§ 44913. Explosive detection

(a) DEPLOYMENT AND PURCHASE OF EQUIPMENT.—(1) A deployment or purchase of explosive detection equipment under section 108.7(b)(8) or 108.20 of title 14, Code of Federal Regulations, or similar regulation is required only if the Administrator of the Federal Aviation Administration certifies that the equipment alone, or as part of an integrated system, can detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material that would likely be used to cause catastrophic damage to commercial aircraft. The Administrator shall base the certification on the results of tests conducted under protocols developed in consultation with expert scientists outside of the Administration. Those tests shall be completed not later than April 16, 1992.

(2) Before completion of the tests described in paragraph (1) of this subsection, but not later than April 16, 1992, the Administrator may require deployment of explosive detection equipment described in paragraph (1) if the Administrator decides that deployment will enhance aviation security significantly. In making that decision, the Administrator shall consider factors such as the ability of the equipment alone, or as part of an integrated system, to detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material that would likely be used to cause catastrophic damage to commercial aircraft. The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of a deployment decision made under this paragraph.

(3) Until such time as the Administrator determines that equipment certified under paragraph (1) is commercially available and has successfully completed operational testing as provided in paragraph (1), the Administrator shall facilitate the deployment of such approved commercially available explosive detection devices as the Administrator determines will enhance aviation security significantly. The Administrator shall require that equipment deployed under this paragraph be replaced by equipment certified under paragraph (1) when equipment certified under paragraph (1) becomes commercially available. The Administrator is authorized, based on operational considerations at individual airports, to waive the required installation of commercially available equipment under paragraph (1) in the interests of aviation security. The Administrator may permit the requirements of this paragraph to be met at airports by the deployment of dogs or other appropriate animals to supplement equipment for screening passengers, baggage, mail, or cargo for explosives or weapons.

(4) This subsection does not prohibit the Administrator from purchasing or deploying explosive detection equipment described in paragraph (1) of this subsection.

(b) GRANTS.—The Secretary of Transportation may provide grants to continue the Explosive Detection K-9 Team Training Program to detect explosives at airports and on aircraft.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1214; Pub. L. 104–264, title III, § 305(a), Oct. 9, 1996, 110 Stat. 3252; Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44913(a)(1) ..	49 App.:1358c(a), (b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 320; added Nov. 16, 1990, Pub. L. 101–604, § 108, 104 Stat. 3077.
44913(a)(2) ..	49 App.:1358c(c).	
44913(a)(3) ..	49 App.:1358c(d).	
44913(b)	49 App.:2225.	Sept. 3, 1982, Pub. L. 97–248, § 529, 96 Stat. 699; Dec. 30, 1987, Pub. L. 100–223, § 114, 101 Stat. 1505.

In subsection (a), the words ''after November 16, 1990'' are omitted as executed. The words ''The Administrator shall base the certification on'' are substituted for ''based on'' because of the restatement.

In subsection (b), the words ''but not be limited to'' are omitted as unnecessary.

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

Subsec. (a)(3), (4). Pub. L. 104–264 added par. (3) and redesignated former par. (3) as (4).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

WEAPONS AND EXPLOSIVE DETECTION STUDY

Section 303 of Pub. L. 104–264 provided that:

''(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall enter into an arrangement with the Director of the National Academy of Sciences (or if the National Academy of Sciences is not available, the head of another equivalent entity) to conduct a study in accordance to this section.

''(b) PANEL OF EXPERTS.—

''(1) IN GENERAL.—In carrying out a study under this section, the Director of the National Academy of Sciences (or the head of another equivalent entity) shall establish a panel (hereinafter in this section referred to as the 'panel').

''(2) EXPERTISE.—Each member of the panel shall have expertise in weapons and explosive detection technology, security, air carrier and airport operations, or another appropriate area. The Director of the National Academy of Sciences (or the head of another equivalent entity) shall ensure that the panel has an appropriate number of representatives of the areas specified in the preceding sentence.

''(c) STUDY.—The panel, in consultation with the National Science and Technology Council, representatives of appropriate Federal agencies, and appropriate members of the private sector, shall—

''(1) assess the weapons and explosive detection technologies that are available at the time of the study that are capable of being effectively deployed in commercial aviation;

''(2) determine how the technologies referred to in paragraph (1) may more effectively be used for promotion and improvement of security at airport and aviation facilities and other secured areas;

''(3) assess the cost and advisability of requiring hardened cargo containers as a way to enhance aviation security and reduce the required sensitivity of bomb detection equipment; and

''(4) on the basis of the assessments and determinations made under paragraphs (1), (2), and (3), identify the most promising technologies for the improvement of the efficiency and cost-effectiveness of weapons and explosive detection.

''(d) COOPERATION.—The National Science and Technology Council shall take such actions as may be necessary to facilitate, to the maximum extent practicable and upon request of the Director of the National Academy of Sciences (or the head of another equivalent entity), the cooperation of representatives of appropriate Federal agencies, as provided for in subsection (c), in providing the panel, for the study under this section—

''(1) expertise; and

''(2) to the extent allowable by law, resources and facilities.

''(e) REPORTS.—The Director of the National Academy of Sciences (or the head of another equivalent entity) shall, pursuant to an arrangement entered into under subsection (a), submit to the Administrator such reports as the Administrator considers to be appropriate. Upon receipt of a report under this subsection, the Administrator shall submit a copy of the report to the appropriate committees of Congress.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1997 through 2001 such sums as may be necessary to carry out this section.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 4261.

§ 44914. Airport construction guidelines

In consultation with air carriers, airport authorities, and others the Administrator of the Federal Aviation Administration considers appropriate, the Administrator shall develop guidelines for airport design and construction to allow for maximum security enhancement. In developing the guidelines, the Administrator shall consider the results of the assessment carried out under section 44904(a) of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1214.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44914	49 App.:1357 (note). 49 App.:1432(d).	Nov. 16, 1990, Pub. L. 101–604, §106(f), 104 Stat. 3075. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §612(d); added Nov. 16, 1990, Pub. L. 101–604, §110(a), 104 Stat. 3080.

The words ''In developing the guidelines'' are substituted for ''In developing airport construction guidelines under subsection (d) of section 612 of the Federal Aviation Act of 1958, as added by section 110 of this Act'' in section 106(f) of the Aviation Security Improvement Act of 1990 (Public Law 101–604, 104 Stat. 3075) to eliminate unnecessary words.

§ 44915. Exemptions

The Administrator of the Federal Aviation Administration may exempt from sections 44901, 44903(a)–(c) and (e), 44906, 44935, and 44936 of this title airports in Alaska served only by air carriers that—

(1) hold certificates issued under section 41102 of this title;

(2) operate aircraft with certificates for a maximum gross takeoff weight of less than 12,500 pounds; and

(3) board passengers, or load property intended to be carried in an aircraft cabin, that will be screened under section 44901 of this title at another airport in Alaska before the passengers board, or the property is loaded on, an aircraft for a place outside Alaska.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1215.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44915	49 App.:1358.	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §317; added July 12, 1976, Pub. L. 94–353, §17(a), 90 Stat. 882.

In clause (1), the word ''issued'' is substituted for ''granted'' for consistency in this part. The words ''by the Civil Aeronautics Board'' are omitted as surplus.

Clause (3) is substituted for 49 App.:1358 (words after 3d comma) for consistency in the revised title.

§ 44916. Assessments and evaluations

(a) PERIODIC ASSESSMENTS.—The Administrator shall require each air carrier and airport (including the airport owner or operator in cooperation with the air carriers and vendors serving each airport) that provides for intrastate, interstate, or foreign air transportation to conduct periodic vulnerability assessments of the security systems of that air carrier or airport, respectively. The Administration shall perform periodic audits of such assessments.

(b) INVESTIGATIONS.—The Administrator shall conduct periodic and unannounced inspections of security systems of airports and air carriers to determine the effectiveness and vulnerabilities of such systems. To the extent allowable by law, the Administrator may provide for anonymous tests of those security systems.

(Added Pub. L. 104–264, title III, § 312(a), Oct. 9, 1996, 110 Stat. 3253.)

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

SUBCHAPTER II—ADMINISTRATION AND PERSONNEL

§ 44931. Director of Intelligence and Security

(a) ORGANIZATION.—There is in the Office of the Secretary of Transportation a Director of Intelligence and Security. The Director reports directly to the Secretary.

(b) DUTIES AND POWERS.—The Director shall—

(1) receive, assess, and distribute intelligence information related to long-term transportation security;

(2) develop policies, strategies, and plans for dealing with threats to transportation security;

(3) make other plans related to transportation security, including coordinating countermeasures with appropriate departments, agencies, and instrumentalities of the United States Government;

(4) serve as the primary liaison of the Secretary to the intelligence and law enforcement communities; and

(5) carry out other duties and powers the Secretary decides are necessary to ensure, to the extent possible, the security of the traveling public.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1215.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44931	49 App.:1652b.	Nov. 16, 1990, Pub. L. 101–604, § 101(a), (b), 104 Stat. 3067.

In subsection (a), the word ''established'' is omitted as executed. The words ''position of'' are omitted as surplus.

In subsection (b), before clause (1), the word ''shall'' is substituted for ''shall have the following duties and powers'' to eliminate unnecessary words. In clause (3), the words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''Federal agencies'' for clarity and consistency in the revised title and with other titles of the United States Code.

DEVELOPMENT OF AVIATION SECURITY LIAISON AGREEMENT

Pub. L. 104–264, title III, § 309, Oct. 9, 1996, 110 Stat. 3253, provided that: ''The Secretary of Transportation and the Attorney General, acting through the Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation, shall enter into an interagency agreement providing for the establishment of an aviation security liaison at existing appropriate Federal agencies' field offices in or near cities served by a designated high-risk airport.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 44932. Assistant Administrator for Civil Aviation Security

(a) ORGANIZATION.—There is an Assistant Administrator for Civil Aviation Security. The Assistant Administrator reports directly to the Administrator of the Federal Aviation Administration and is subject to the authority of the Administrator.

(b) DUTIES AND POWERS.—The Assistant Administrator shall—

(1) on a day-to-day basis, manage and provide operational guidance to the field security resources of the Administration, including Federal Security Managers as provided by section 44933 of this title;

(2) enforce security-related requirements;

(3) identify the research and development requirements of security-related activities;

(4) inspect security systems;

(5) report information to the Director of Intelligence and Security that may be necessary to allow the Director to carry out assigned duties and powers;

(6) assess threats to civil aviation; and

(7) carry out other duties and powers the Administrator considers appropriate.

(c) REVIEW AND DEVELOPMENT OF WAYS TO STRENGTHEN SECURITY.—The Assistant Administrator shall review and, as necessary, develop ways to strengthen air transportation security, including ways—

(1) to strengthen controls over checked baggage in air transportation, including ways to ensure baggage reconciliation and inspection of items in passenger baggage that could potentially contain explosive devices;

(2) to strengthen control over individuals having access to aircraft;

(3) to improve testing of security systems;

(4) to ensure the use of the best available x-ray equipment for air transportation security purposes; and

(5) to strengthen preflight screening of passengers.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1215.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44932(a)	49 App.:1358a(a), (b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §318; added Nov. 16, 1990, Pub. L. 101–604, §103, 104 Stat. 3069.
44932(b)	49 App.:1358a(c).	
44932(c)	49 App.:1358a(d).	

In subsection (a), the words ''There is an'' are substituted for ''There is established the position of'' to eliminate unnecessary and executed words. The word ''direction'' is omitted as being included in ''authority''.

In subsection (b)(1), the words ''as provided by section 44933 of this title'' are added for clarity and because of the restatement. In clause (5), the words ''duties and powers'' are substituted for ''responsibilities'' for consistency in the revised title and with other titles of the United States Code. In clause (7), the words ''carry out duties and powers'' are substituted for ''such other functions'' for consistency in the revised title and with other titles of the Code. The word ''necessary'' is omitted as being included in ''appropriate''.

§ 44933. Federal Security Managers

(a) ESTABLISHMENT, DESIGNATION, AND STATIONING.—The Administrator of the Federal Aviation Administration shall establish the position of Federal Security Manager at each airport in the United States at which the Administrator decides a Manager is necessary for air transportation security. The Administrator shall designate individuals as Managers for, and station those Managers at, those airports. The Administrator may designate a current field employee of the Administration as a Manager. A Manager reports directly to the Assistant Administrator for Civil Aviation Security. The Administrator shall station an individual as Manager at each airport in the United States that the Secretary of Transportation designates as a category X airport.

(b) DUTIES AND POWERS.—The Manager at each airport shall—

(1) receive intelligence information related to aviation security;

(2) ensure, and assist in, the development of a comprehensive security plan for the airport that—

(A) establishes the responsibilities of each air carrier and airport operator for air transportation security at the airport; and

(B) includes measures to be taken during periods of normal airport operations and during periods when the Manager decides that there is a need for additional airport security, and identifies the individuals responsible for carrying out those measures;

(3) oversee and enforce the carrying out by air carriers and airport operators of United States Government security requirements, including the security plan under clause (2) of this subsection;

(4) serve as the on-site coordinator of the Administrator's response to terrorist incidents and threats at the airport;

(5) coordinate the day-to-day Government aviation security activities at the airport;

(6) coordinate efforts related to aviation security with local law enforcement; and

(7) coordinate activities with other Managers.

(c) LIMITATION.—A Civil Aviation Security Field Officer may not be assigned security duties and powers at an airport having a Manager.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1216.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44933(a)	49 App.:1358b(a)(1), (2), (4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §319(a); added Nov. 16, 1990, Pub. L. 101–604, §104, 104 Stat. 3070.
44933(b)	49 App.:1358b(a)(3).	
44933(c)	49 App.:1358b(a)(5).	

In subsection (a), the words ''Not later than 90 days after November 16, 1990'' are omitted as obsolete. The words ''The Administrator shall designate individuals as Managers for, and station those Managers at, those airports'' are substituted for ''and shall begin designating persons as such Managers and stationing such Managers at such airports'' for clarity and because of the restatement. The words ''and designate a current field employee of the Administration as a Manager'' are substituted for ''assign the functions and responsibilities described in this section to existing Federal Aviation Administration field personnel and designate such personnel accordingly'' to eliminate unnecessary words. The words ''to the office of'' are omitted as unnecessary. The words ''Not later than 1 year after November 16, 1990'' are omitted as obsolete. The words ''Secretary of Transportation'' are substituted for ''Department of Transportation'' because of 49:102.

In subsection (b), before clause (1), the words ''The Manager at each airport shall'' are substituted for ''The responsibilities of a Federal Security Manager shall include the following'' to eliminate unnecessary words. In clause (2)(A), the words ''air carrier'' are substituted for ''such air carrier'' because this is the first time the term is used in the source provisions. In clause (3), the words ''United States Government'' are substituted for ''Federal'' for clarity and consistency in the revised title and with other titles of the United States Code. In clause (7), the words ''other Managers'' are substituted for ''Federal Security Managers at other airports, as appropriate'' to eliminate unnecessary words.

In subsection (c), the words ''duties and powers'' are substituted for ''responsibilities'' for clarity and consistency in the revised title and with other titles of the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44932, 44934 of this title.

§ 44934. Foreign Security Liaison Officers

(a) ESTABLISHMENT, DESIGNATION, AND STATIONING.—The Administrator of the Federal Aviation Administration shall establish the position of Foreign Security Liaison Officer for each airport outside the United States at which the Administrator decides an Officer is necessary for air transportation security. In coordination with the Secretary of State, the Administrator shall designate an Officer for each of those airports. In coordination with the Secretary, the Administrator shall designate an Officer for each of those airports where extraordinary security measures are in place. The Secretary shall give high priority to stationing those Officers.

(b) DUTIES AND POWERS.—An Officer reports directly to the Assistant Administrator for Civil

Aviation Security. The Officer at each airport shall—

(1) serve as the liaison of the Assistant Administrator to foreign security authorities (including governments of foreign countries and foreign airport authorities) in carrying out United States Government security requirements at that airport; and

(2) to the extent practicable, carry out duties and powers referred to in section 44933(b) of this title.

(c) COORDINATION OF ACTIVITIES.—The activities of each Officer shall be coordinated with the chief of the diplomatic mission of the United States to which the Officer is assigned. Activities of an Officer under this section shall be consistent with the duties and powers of the Secretary and the chief of mission to a foreign country under section 103 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4802) and section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1217.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44934(a)	49 App.:1358b(b)(1), (2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §319(b); added Nov. 16, 1990, Pub. L. 101–604, §104, 104 Stat. 3071.
44934(b)	49 App.:1358b(b)(3), (4).	
44934(c)	49 App.:1358b(b)(5).	

In subsection (a), the words ''Not later than 90 days after November 16, 1990'' are omitted as obsolete. The words ''shall designate'' are substituted for ''shall begin assigning'' for consistency with the source provisions restated in section 44933 of the revised title and because of the restatement. The words ''Not later than 2 years after November 16, 1990'' are omitted as obsolete. The word ''designate'' is substituted for ''assign'' for consistency with the source provisions restated in section 44933 of the revised title. The words ''outside the United States'' are omitted as unnecessary.

In subsection (b), before clause (1), the words ''to the office of'' are omitted as unnecessary. In clause (1), the words ''governments of foreign countries and foreign airport authorities'' are substituted for ''foreign governments and airport authorities'' for clarity and consistency in the revised title and with other titles of the United States Code. In clause (2), the words ''duties and powers'' are substituted for ''responsibilities'' for consistency in the revised title and with other titles of the Code.

In subsection (c), the words ''duties and powers'' are substituted for ''authorities'' for clarity and consistency in the revised title and with other titles of the Code.

§ 44935. Employment standards and training

(a) EMPLOYMENT STANDARDS.—The Administrator of the Federal Aviation Administration shall prescribe standards for the employment and continued employment of, and contracting for, air carrier personnel and, as appropriate, airport security personnel. The standards shall include—

(1) minimum training requirements for new employees;

(2) retraining requirements;

(3) minimum staffing levels;

(4) minimum language skills; and

(5) minimum education levels for employees, when appropriate.

(b) REVIEW AND RECOMMENDATIONS.—In coordination with air carriers, airport operators, and other interested persons, the Administrator shall review issues related to human performance in the aviation security system to maximize that performance. When the review is completed, the Administrator shall recommend guidelines and prescribe appropriate changes in existing procedures to improve that performance.

(c) SECURITY PROGRAM TRAINING, STANDARDS, AND QUALIFICATIONS.—(1) The Administrator—

(A) may train individuals employed to carry out a security program under section 44903(c) of this title; and

(B) shall prescribe uniform training standards and uniform minimum qualifications for individuals eligible for that training.

(2) The Administrator may authorize reimbursement for travel, transportation, and subsistence expenses for security training of non-United States Government domestic and foreign individuals whose services will contribute significantly to carrying out civil aviation security programs. To the extent practicable, air travel reimbursed under this paragraph shall be on air carriers.

(d) EDUCATION AND TRAINING STANDARDS FOR SECURITY COORDINATORS, SUPERVISORY PERSONNEL, AND PILOTS.—(1) The Administrator shall prescribe standards for educating and training—

(A) ground security coordinators;

(B) security supervisory personnel; and

(C) airline pilots as in-flight security coordinators.

(2) The standards shall include initial training, retraining, and continuing education requirements and methods. Those requirements and methods shall be used annually to measure the performance of ground security coordinators and security supervisory personnel.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1217.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44935(a)	49 App.:1357(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(h)–(j); added Nov. 16, 1990, Pub. L. 101–604, §105(a), 104 Stat. 3073.
44935(b)	49 App.:1357(i).	
44935(c)	49 App.:1357(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(c); added Aug. 5, 1974, Pub. L. 93–366, §202, 88 Stat. 416; Oct. 31, 1992, Pub. L. 102–581, §202, 106 Stat. 4890.
44935(d)	49 App.:1357(j).	

In subsection (a), before clause (1), the words ''Not later than 270 days after November 16, 1990'' are omitted as obsolete. The words ''contracting for'' are substituted for ''contracting of'' for clarity and consistency in the revised title.

In subsection (c)(1)(A), the words ''individuals employed'' are substituted for ''personnel employed by him . . . and for other personnel, including State, local, and private law enforcement personnel, whose services may be utilized'' for clarity and consistency in

the revised title and with other titles of the United States Code.

In subsection (c)(1)(B), the words ''individuals eligible'' are substituted for ''personnel whose services are utilized to enforce any such transportation security program, including State, local, and private law enforcement personnel . . . for personnel eligible'' for clarity and consistency in the revised title and with other titles of the Code.

In subsection (c)(2), the words ''under this section'' are omitted as unnecessary. The words ''United States'' before ''air carriers'' are omitted because of the definition of ''air carrier'' in section 40102(a) of the revised title.

In subsection (d)(1), before clause (A), the words ''Not later than 180 days after November 16, 1990'' are omitted as obsolete.

CERTIFICATION OF SCREENING COMPANIES

Pub. L. 104–264, title III, §302, Oct. 9, 1996, 110 Stat. 3250, provided that: ''The Administrator of the Federal Aviation Administration is directed to certify companies providing security screening and to improve the training and testing of security screeners through development of uniform performance standards for providing security screening services.''

STUDIES OF MINIMUM STANDARDS FOR PILOT QUALIFICATIONS AND OF PAY FOR TRAINING

Pub. L. 104–264, title V, §503, Oct. 9, 1996, 110 Stat. 3263, provided that:

''(a) STUDY.—The Administrator of the Federal Aviation Administration shall appoint a task force consisting of appropriate representatives of the aviation industry to conduct—

''(1) a study directed toward the development of—

''(A) standards and criteria for preemployment screening tests measuring the psychomotor coordination, general intellectual capacity, instrument and mechanical comprehension, and physical and mental fitness of an applicant for employment as a pilot by an air carrier; and

''(B) standards and criteria for pilot training facilities to be licensed by the Administrator and which will assure that pilots trained at such facilities meet the preemployment screening standards and criteria described in subparagraph (A); and

''(2) a study to determine if the practice of some air carriers to require employees or prospective employees to pay for the training or experience that is needed to perform flight check duties for an air carrier is in the public interest.

''(b) REPORT.—Not later than 1 year after the date of the enactment of this Act [Oct. 9, 1996], the Administrator shall transmit to Congress a report on the results of the study conducted under subsection (a)(2).''

STUDY OF MINIMUM FLIGHT TIME

Pub. L. 104–264, title V, §504, Oct. 9, 1996, 110 Stat. 3263, provided that:

''(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study to determine whether current minimum flight time requirements applicable to individuals seeking employment as a pilot with an air carrier are sufficient to ensure public safety.

''(b) REPORT.—Not later than 1 year after the date of the enactment of this Act [Oct. 9, 1996], the Administrator shall transmit to Congress a report on the results of the study.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40109, 40119, 44915, 44937 of this title.

§ 44936. Employment investigations and restrictions

(a) EMPLOYMENT INVESTIGATION REQUIREMENT.—(1)(A) The Administrator of the Federal Aviation Administration shall require by regulation that an employment investigation, including a criminal history record check, shall be conducted, as the Administrator decides is necessary to ensure air transportation security, of each individual employed in, or applying for, a position in which the individual has unescorted access, or may permit other individuals to have unescorted access, to—

(i) aircraft of an air carrier or foreign air carrier; or

(ii) a secured area of an airport in the United States the Administrator designates that serves an air carrier or foreign air carrier.

(B) The Administrator shall require by regulation that an employment investigation (including a criminal history record check in any case described in subparagraph (C)) be conducted for—

(i) individuals who will be responsible for screening passengers or property under section 44901 of this title;

(ii) supervisors of the individuals described in clause (i); and

(iii) such other individuals who exercise security functions associated with baggage or cargo, as the Administrator determines is necessary to ensure air transportation security.

(C) Under the regulations issued under subparagraph (B), a criminal history record check shall be conducted in any case in which—

(i) an employment investigation reveals a gap in employment of 12 months or more that the individual who is the subject of the investigation does not satisfactorily account for;

(ii) such individual is unable to support statements made on the application of such individual;

(iii) there are significant inconsistencies in the information provided on the application of such individual; or

(iv) information becomes available during the employment investigation indicating a possible conviction for one of the crimes listed in subsection (b)(1)(B).

(D) If an individual requires a criminal history record check under subparagraph (C), the individual may be employed as a screener until the check is completed if the individual is subject to supervision.

(2) An air carrier, foreign air carrier, or airport operator that employs, or authorizes or makes a contract for the services of, an individual in a position described in paragraph (1) of this subsection shall ensure that the investigation the Administrator requires is conducted.

(3) The Administrator shall provide for the periodic audit of the effectiveness of criminal history record checks conducted under paragraph (1) of this subsection.

(b) PROHIBITED EMPLOYMENT.—(1) Except as provided in paragraph (3) of this subsection, an air carrier, foreign air carrier, or airport operator may not employ, or authorize or make a contract for the services of, an individual in a position described in subsection (a)(1) of this section if—

(A) the investigation of the individual required under this section has not been conducted; or

(B) the results of that investigation establish that, in the 10-year period ending on the date of the investigation, the individual was convicted of—

(i) a crime referred to in section 46306, 46308, 46312, 46314, or 46315 or chapter 465 of this title or section 32 of title 18;

(ii) murder;

(iii) assault with intent to murder;

(iv) espionage;

(v) sedition;

(vi) treason;

(vii) rape;

(viii) kidnapping;

(ix) unlawful possession, sale, distribution, or manufacture of an explosive or weapon;

(x) extortion;

(xi) armed robbery;

(xii) distribution of, or intent to distribute, a controlled substance; or

(xiii) conspiracy to commit any of the acts referred to in clauses (i)–(xii) of this paragraph.

(2) The Administrator may specify other factors that are sufficient to prohibit the employment of an individual in a position described in subsection (a)(1) of this section.

(3) An air carrier, foreign air carrier, or airport operator may employ, or authorize or contract for the services of, an individual in a position described in subsection (a)(1) of this section without carrying out the investigation required under this section, if the Administrator approves a plan to employ the individual that provides alternate security arrangements.

(c) FINGERPRINTING AND RECORD CHECK INFORMATION.—(1) If the Administrator requires an identification and criminal history record check, to be conducted by the Attorney General, as part of an investigation under this section, the Administrator shall designate an individual to obtain fingerprints and submit those fingerprints to the Attorney General. The Attorney General may make the results of a check available to an individual the Administrator designates. Before designating an individual to obtain and submit fingerprints or receive results of a check, the Administrator shall consult with the Attorney General.

(2) The Administrator shall prescribe regulations on—

(A) procedures for taking fingerprints; and

(B) requirements for using information received from the Attorney General under paragraph (1) of this subsection—

(i) to limit the dissemination of the information; and

(ii) to ensure that the information is used only to carry out this section.

(3) If an identification and criminal history record check is conducted as part of an investigation of an individual under this section, the individual—

(A) shall receive a copy of any record received from the Attorney General; and

(B) may complete and correct the information contained in the check before a final employment decision is made based on the check.

(d) FEES AND CHARGES.—The Administrator and the Attorney General shall establish reasonable fees and charges to pay expenses incurred in carrying out this section. The employer of the individual being investigated shall pay the costs of a record check of the individual. Money collected under this section shall be credited to the account in the Treasury from which the expenses were incurred and are available to the Administrator and the Attorney General for those expenses.

(e) WHEN INVESTIGATION OR RECORD CHECK NOT REQUIRED.—This section does not require an investigation or record check when the investigation or record check is prohibited by a law of a foreign country.

(f) RECORDS OF EMPLOYMENT OF PILOT APPLICANTS.—

(1) IN GENERAL.—Subject to paragraph (14), before allowing an individual to begin service as a pilot, an air carrier shall request and receive the following information:

(A) FAA RECORDS.—From the Administrator of the Federal Aviation Administration, records pertaining to the individual that are maintained by the Administrator concerning—

(i) current airman certificates (including airman medical certificates) and associated type ratings, including any limitations to those certificates and ratings; and

(ii) summaries of legal enforcement actions resulting in a finding by the Administrator of a violation of this title or a regulation prescribed or order issued under this title that was not subsequently overturned.

(B) AIR CARRIER AND OTHER RECORDS.—From any air carrier or other person that has employed the individual as a pilot of a civil or public aircraft at any time during the 5-year period preceding the date of the employment application of the individual, or from the trustee in bankruptcy for such air carrier or person—

(i) records pertaining to the individual that are maintained by an air carrier (other than records relating to flight time, duty time, or rest time) under regulations set forth in—

(I) section 121.683 of title 14, Code of Federal Regulations;

(II) paragraph (A) of section VI, appendix I, part 121 of such title;

(III) paragraph (A) of section IV, appendix J, part 121 of such title;

(IV) section 125.401 of such title; and

(V) section 135.63(a)(4) of such title; and

(ii) other records pertaining to the individual that are maintained by the air carrier or person concerning—

(I) the training, qualifications, proficiency, or professional competence of the individual, including comments and evaluations made by a check airman designated in accordance with section 121.411, 125.295, or 135.337 of such title;

(II) any disciplinary action taken with respect to the individual that was not subsequently overturned; and

(III) any release from employment or resignation, termination, or disqualification with respect to employment.

(C) NATIONAL DRIVER REGISTER RECORDS.—In accordance with section 30305(b)(8) of this title, from the chief driver licensing official of a State, information concerning the motor vehicle driving record of the individual.

(2) WRITTEN CONSENT; RELEASE FROM LIABILITY.—An air carrier making a request for records under paragraph (1)—

(A) shall be required to obtain written consent to the release of those records from the individual that is the subject of the records requested; and

(B) may, notwithstanding any other provision of law or agreement to the contrary, require the individual who is the subject of the records to request to execute a release from liability for any claim arising from the furnishing of such records to or the use of such records by such air carrier (other than a claim arising from furnishing information known to be false and maintained in violation of a criminal statute).

(3) 5-YEAR REPORTING PERIOD.—A person shall not furnish a record in response to a request made under paragraph (1) if the record was entered more than 5 years before the date of the request, unless the information concerns a revocation or suspension of an airman certificate or motor vehicle license that is in effect on the date of the request.

(4) REQUIREMENT TO MAINTAIN RECORDS.—The Administrator and air carriers shall maintain pilot records described in paragraphs (1)(A) and (1)(B) for a period of at least 5 years.

(5) RECEIPT OF CONSENT; PROVISION OF INFORMATION.—A person shall not furnish a record in response to a request made under paragraph (1) without first obtaining a copy of the written consent of the individual who is the subject of the records requested. A person who receives a request for records under this subsection shall furnish a copy of all of such requested records maintained by the person not later than 30 days after receiving the request.

(6) RIGHT TO RECEIVE NOTICE AND COPY OF ANY RECORD FURNISHED.—A person who receives a request for records under paragraph (1) shall provide to the individual who is the subject of the records—

(A) on or before the 20th day following the date of receipt of the request, written notice of the request and of the individual's right to receive a copy of such records; and

(B) in accordance with paragraph (10), a copy of such records, if requested by the individual.

(7) REASONABLE CHARGES FOR PROCESSING REQUESTS AND FURNISHING COPIES.—A person who receives a request under paragraph (1) or (6) may establish a reasonable charge for the cost of processing the request and furnishing copies of the requested records.

(8) STANDARD FORMS.—The Administrator shall promulgate—

(A) standard forms that may be used by an air carrier to request records under paragraph (1); and

(B) standard forms that may be used by an air carrier to—

(i) obtain the written consent of the individual who is the subject of a request under paragraph (1); and

(ii) inform the individual of—

(I) the request; and

(II) the individual right of that individual to receive a copy of any records furnished in response to the request.

(9) RIGHT TO CORRECT INACCURACIES.—An air carrier that maintains or requests and receives the records of an individual under paragraph (1) shall provide the individual with a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records before making a final hiring decision with respect to the individual.

(10) RIGHT OF PILOT TO REVIEW CERTAIN RECORDS.—Notwithstanding any other provision of law or agreement, an air carrier shall, upon written request from a pilot who is or has been employed by such carrier, make available, within a reasonable time, but not later than 30 days after the date of the request, to the pilot for review, any and all employment records referred to in paragraph (1)(B)(i) or (ii) pertaining to the employment of the pilot.

(11) PRIVACY PROTECTIONS.—An air carrier that receives the records of an individual under paragraph (1) may use such records only to assess the qualifications of the individual in deciding whether or not to hire the individual as a pilot. The air carrier shall take such actions as may be necessary to protect the privacy of the pilot and the confidentiality of the records, including ensuring that information contained in the records is not divulged to any individual that is not directly involved in the hiring decision.

(12) PERIODIC REVIEW.—Not later than 18 months after the date of the enactment of the Pilot Records Improvement Act of 1996, and at least once every 3 years thereafter, the Administrator shall transmit to Congress a statement that contains, taking into account recent developments in the aviation industry—

(A) recommendations by the Administrator concerning proposed changes to Federal Aviation Administration records, air carrier records, and other records required to be furnished under subparagraphs (A) and (B) of paragraph (1); or

(B) reasons why the Administrator does not recommend any proposed changes to the records referred to in subparagraph (A).

(13) REGULATIONS.—The Administrator may prescribe such regulations as may be necessary—

(A) to protect—

(i) the personal privacy of any individual whose records are requested under paragraph (1); and

(ii) the confidentiality of those records;

(B) to preclude the further dissemination of records received under paragraph (1) by the person who requested those records; and

(C) to ensure prompt compliance with any request made under paragraph (1).

(14) SPECIAL RULES WITH RESPECT TO CERTAIN PILOTS.—

(A) PILOTS OF CERTAIN SMALL AIRCRAFT.—Notwithstanding paragraph (1), an air carrier, before receiving information requested about an individual under paragraph (1), may allow the individual to begin service for a period not to exceed 90 days as a pilot of an aircraft with a maximum payload capacity (as defined in section 119.3 of title 14, Code of Federal Regulations) of 7,500 pounds or less, or a helicopter, on a flight that is not a scheduled operation (as defined in such section). Before the end of the 90-day period, the air carrier shall obtain and evaluate such information. The contract between the carrier and the individual shall contain a term that provides that the continuation of the individual's employment, after the last day of the 90-day period, depends on a satisfactory evaluation.

(B) GOOD FAITH EXCEPTION.—Notwithstanding paragraph (1), an air carrier, without obtaining information about an individual under paragraph (1)(B) from an air carrier or other person that no longer exists, may allow the individual to begin service as a pilot if the air carrier required to request the information has made a documented good faith attempt to obtain such information.

(g) LIMITATION ON LIABILITY; PREEMPTION OF STATE LAW.—

(1) LIMITATION ON LIABILITY.—No action or proceeding may be brought by or on behalf of an individual who has applied for or is seeking a position with an air carrier as a pilot and who has signed a release from liability, as provided for under paragraph (2), against—

(A) the air carrier requesting the records of that individual under subsection (f)(1);

(B) a person who has complied with such request;

(C) a person who has entered information contained in the individual's records; or

(D) an agent or employee of a person described in subparagraph (A) or (B);

in the nature of an action for defamation, invasion of privacy, negligence, interference with contract, or otherwise, or under any Federal or State law with respect to the furnishing or use of such records in accordance with subsection (f).

(2) PREEMPTION.—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 records in accordance with subsection (f).

(3) PROVISION OF KNOWINGLY FALSE INFORMATION.—Paragraphs (1) and (2) shall not apply with respect to a person who furnishes information in response to a request made under subsection (f)(1), that—

(A) the person knows is false; and

(B) was maintained in violation of a criminal statute of the United States.

(h) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in subsection (f) shall be construed as precluding the availability of the records of a pilot in an investigation or other proceeding concerning an accident or incident conducted by the Administrator, the National Transportation Safety Board, or a court.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1218; Pub. L. 104–264, title III, §§ 304(a), 306, title V, § 502(a), Oct. 9, 1996, 110 Stat. 3251, 3252, 3259; Pub. L. 105–102, § 2(25), Nov. 20, 1997, 111 Stat. 2205; Pub. L. 105–142, § 1, Dec. 5, 1997, 111 Stat. 2650.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44936(a)	49 App.:1357(g)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(g); added Nov. 16, 1990, Pub. L. 101–604, § 105(a), 104 Stat. 3071.
	49 App.:1357 (note).	Oct. 28, 1991, Pub. L. 102–143, § 346, 105 Stat. 949.
44936(b)	49 App.:1357(g)(3).	
44936(c)	49 App.:1357(g)(2) (less (A) (2d sentence)).	
44936(d)	49 App.:1357(g)(2)(A) (2d sentence), (5).	
44936(e)	49 App.:1357(g)(4).	

In subsection (a), the text of section 346 of the Department of Transportation and Related Agencies Appropriations Act, 1992 (Public Law 102–143, 105 Stat. 949) is omitted as executed.

In subsection (a)(2), the words ''shall ensure'' are substituted for ''shall take such actions as may be necessary to ensure'' to eliminate unnecessary words. The word ''conducted'' is substituted for ''performed'' for consistency in the revised title.

In subsection (b)(2), the words ''The Administrator may specify'' are substituted for ''The Administrator may specify . . . the Administrator determines'' to eliminate unnecessary words. The words ''prohibit the employment of an individual'' are substituted for ''make an individual ineligible for employment'' for clarity.

In subsection (b)(3), the words ''may employ'' are substituted for ''It shall not be a violation of subparagraph (A) for . . . to employ'' to eliminate unnecessary words.

In subsection (c)(1), the words ''Before designating an individual to obtain and submit fingerprints or receive results of a check, the Administrator shall consult with the Attorney General'' are substituted for ''after consultation with the Attorney General'' for clarity.

In subsection (c)(2), before clause (A), the words ''For purposes of administering this subsection'' are omitted as unnecessary. In clause (A), the word ''implement'' is omitted as unnecessary because of the restatement. In clause (B), before subclause (ii), the word ''establish'' is omitted as unnecessary because of the restatement. In subclause (ii), the words ''to carry out this section'' are substituted for ''for the purposes of this section'' for clarity.

In subsection (e), the words ''a law of a foreign country'' are substituted for ''applicable laws of a foreign government'' for clarity and consistency in the revised title and with other titles of the United States Code.

PUB. L. 105–102

This amends 49:44936(f)(1)(C) to reflect the redesignation of 49:30305(b)(7) as 49:30305(b)(8) by section 207(b) of the Coast Guard Authorization Act of 1996 (Public Law 104–324, 110 Stat. 3908).

REFERENCES IN TEXT

The date of the enactment of the Pilot Records Improvement Act of 1996, referred to in subsec. (f)(12), is the date of enactment of Pub. L. 104–264, which was approved Oct. 9, 1996.

AMENDMENTS

1997—Subsec. (f)(1). Pub. L. 105–142, §1(1), substituted ''Subject to paragraph (14), before allowing an individual to begin service'' for ''Before hiring an individual'' in introductory provisions.

Subsec. (f)(1)(B). Pub. L. 105–142, §1(2), inserted ''as a pilot of a civil or public aircraft'' before ''at any time'' in introductory provisions.

Subsec. (f)(1)(C). Pub. L. 105–102 substituted ''section 30305(b)(8) of this title'' for ''section 30305(b)(7)''.

Subsec. (f)(4). Pub. L. 105–142, §1(3), inserted ''and air carriers'' after ''Administrator'' and substituted ''paragraphs (1)(A) and (1)(B)'' for ''paragraph (1)(A)''.

Subsec. (f)(5). Pub. L. 105–142, §1(4), substituted ''this subsection'' for ''this paragraph''.

Subsec. (f)(10). Pub. L. 105–142, §1(5), inserted ''who is or has been'' before ''employed'' and '', but not later than 30 days after the date'' after ''reasonable time''.

Subsec. (f)(14). Pub. L. 105–142, §1(6), added par. (14).

1996—Subsec. (a)(1). Pub. L. 104–264, §304(a), designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) of par. (1) as cls. (i) and (ii) of subpar. (A), respectively, and added subpars. (B) to (D).

Subsec. (a)(3). Pub. L. 104–264, §306, added par. (3).

Subsecs. (f) to (h). Pub. L. 104–264, §502(a), added subsecs. (f) to (h).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 304(b) of Pub. L. 104–264 provided that: ''The amendment made by subsection (a)(3) [amending this section] shall apply to individuals hired to perform functions described in section 44936(a)(1)(B) of title 49, United States Code, after the date of the enactment of this Act [Oct. 9, 1996]; except that the Administrator of the Federal Aviation Administration may, as the Administrator determines to be appropriate, require such employment investigations or criminal history records checks for individuals performing those functions on the date of the enactment of this Act.''

Amendment by section 502(a) of Pub. L. 104–264 applicable to any air carrier hiring an individual as a pilot whose application was first received by the carrier on or after the 120th day following Oct. 9, 1996, see section 502(d) of Pub. L. 104–264, set out as a note under section 30305 of this title.

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40109, 40119, 44915, 44937 of this title.

§ 44937. Prohibition on transferring duties and powers

Except as specifically provided by law, the Administrator of the Federal Aviation Administration may not transfer a duty or power under section 44903(a), (b), (c), or (e), 44906, 44912, 44935, 44936, or 44938(b)(3) of this title to another department, agency, or instrumentality of the United States Government.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1219; Pub. L. 103–429, §6(57), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44937	49 App.:1357(e)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(e)(1); added Aug. 5, 1974, Pub. L. 93–366, §202, 88 Stat. 417.

The word ''otherwise'' is omitted as surplus. The word ''assigned'' is omitted as being included in ''transfer''. The word ''function'' is omitted as being included in ''duty or power''. The words ''department, agency, or instrumentality of the United States Government'' are substituted for ''Federal department or agency'' for clarity and consistency in the revised title and with other titles of the United States Code.

PUB. L. 103–429

This amends 49:44937 to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1219).

AMENDMENTS

1994—Pub. L. 103–429 substituted ''44906'' for ''44906(a)(1) or (b)''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40109 of this title.

§ 44938. Reports

(a) TRANSPORTATION SECURITY.—Not later than March 31 of each year, the Secretary of Transportation shall submit to Congress a report on transportation security with recommendations the Secretary considers appropriate. The report shall be prepared in conjunction with the annual report the Administrator of the Federal Aviation Administration submits under subsection (b) of this section, but may not duplicate the information submitted under subsection (b) or section 44907(a)(3) of this title. The Secretary may submit the report in classified and unclassified parts. The report shall include—

(1) an assessment of trends and developments in terrorist activities, methods, and other threats to transportation;

(2) an evaluation of deployment of explosive detection devices;

(3) recommendations for research, engineering, and development activities related to transportation security, except research engineering and development activities related to aviation security to the extent those activities are covered by the national aviation research plan required under section 44501(c) of this title;

(4) identification and evaluation of cooperative efforts with other departments, agencies, and instrumentalities of the United States Government;

(5) an evaluation of cooperation with foreign transportation and security authorities;

(6) the status of the extent to which the recommendations of the President's Commission on Aviation Security and Terrorism have been carried out and the reasons for any delay in carrying out those recommendations;

(7) a summary of the activities of the Director of Intelligence and Security in the 12-month period ending on the date of the report;

(8) financial and staffing requirements of the Director;

(9) an assessment of financial and staffing requirements, and attainment of existing staffing goals, for carrying out duties and pow-

ers of the Administrator related to security; and

(10) appropriate legislative and regulatory recommendations.

(b) SCREENING AND FOREIGN AIR CARRIER AND AIRPORT SECURITY.—The Administrator shall submit annually to Congress a report—

(1) on the effectiveness of procedures under section 44901 of this title;

(2) that includes a summary of the assessments conducted under section 44907(a)(1) and (2) of this title; and

(3) that includes an assessment of the steps being taken, and the progress being made, in ensuring compliance with section 44906 of this title for each foreign air carrier security program at airports outside the United States—

(A) at which the Administrator decides that Foreign Security Liaison Officers are necessary for air transportation security; and

(B) for which extraordinary security measures are in place.

(c) DOMESTIC AIR TRANSPORTATION SYSTEM SECURITY.—The Administrator shall submit to Congress an annual report for each of the calendar years 1991 and 1992 on the progress being made, and the problems occurring, in carrying out section 44904 of this title. The report shall include recommendations for improving domestic air transportation security.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1220; Pub. L. 103–305, title V, § 502, Aug. 23, 1994, 108 Stat. 1595.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
44938(a)	49 App.:1356(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 315(b); added Nov. 16, 1990, Pub. L. 101–604, § 102(a), 104 Stat. 3068.
44938(b)(1), (2).	49 App.:1356(a) (3d sentence 1st–18th words, last sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 315(a) (3d sentence 1st–18th words, last sentence); added Aug. 5, 1974, Pub. L. 93–366, § 202, 88 Stat. 415; Aug. 8, 1985, Pub. L. 99–83, § 551(b)(1), 99 Stat. 225; Nov. 16, 1990, Pub. L. 101–604, § 102(b), 104 Stat. 3069.
44938(b)(3) ..	49 App.:1357(k)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(k)(4); added Nov. 16, 1990, Pub. L. 101–604, § 105(a), 104 Stat. 3074.
44938(c)	49 App.:1357 (note).	Nov. 16, 1990, Pub. L. 101–604, § 106(d), 104 Stat. 3075.

In subsection (a), before clause (1), the words ''each year'' are substituted for ''of calendar year 1991 and of each calendar year thereafter'' to eliminate unnecessary words. In clauses (8) and (9), the word ''financial'' is substituted for ''funding'' for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the word ''screening'' is omitted as surplus.

In subsection (b)(2), the words ''a summary of the assessments conducted under section 44907(a)(1) and (2) of this title'' are substituted for ''the information described in section 1515(c) of this Appendix'' for clarity.

In subsection (b)(3), before clause (A), the words ''that includes'' are substituted for ''The Administrator shall submit to Congress as part of the annual report required by section 315(a)'' because of the restatement.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–305 substituted ''March 31'' for ''December 31''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 337, 40119, 44907, 44937 of this title.

CHAPTER 451—ALCOHOL AND CONTROLLED SUBSTANCES TESTING

Sec.
45101. Definition.
45102. Alcohol and controlled substances testing programs.
45103. Prohibited service.
45104. Testing and laboratory requirements.
45105. Rehabilitation.
45106. Relationship to other laws, regulations, standards, and orders.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 106 of this title.

§ 45101. Definition

In this chapter, ''controlled substance'' means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) specified by the Administrator of the Federal Aviation Administration.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1221.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45101	49 App.:1434(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 614(f); added Oct. 28, 1991, Pub. L. 102–143, § 3(a), 105 Stat. 956.

§ 45102. Alcohol and controlled substances testing programs

(a) PROGRAM FOR EMPLOYEES OF AIR CARRIERS AND FOREIGN AIR CARRIERS.—(1) In the interest of aviation safety, the Administrator of the Federal Aviation Administration shall prescribe regulations that establish a program requiring air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of airmen, crew members, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as decided by the Administrator) for the use of a controlled substance in violation of law or a United States Government regulation; and to conduct reasonable suspicion, random, and post-accident testing of airmen, crew members, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as decided by the Administrator) for the use of alcohol in violation of law or a United States Government regulation. The regulations shall permit air carriers and foreign air carriers to conduct preemployment testing of airmen, crew members, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as decided by the Administrator) for the use of alcohol.

(2) When the Administrator considers it appropriate in the interest of safety, the Adminis-

trator may prescribe regulations for conducting periodic recurring testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(b) PROGRAM FOR EMPLOYEES OF THE FEDERAL AVIATION ADMINISTRATION.—(1) The Administrator shall establish a program of preemployment, reasonable suspicion, random, and post-accident testing for the use of a controlled substance in violation of law or a United States Government regulation for employees of the Administration whose duties include responsibility for safety-sensitive functions and shall establish a program of reasonable suspicion, random, and post-accident testing for the use of alcohol in violation of law or a United States Government regulation for such employees. The Administrator may establish a program of preemployment testing for the use of alcohol for such employees.

(2) When the Administrator considers it appropriate in the interest of safety, the Administrator may prescribe regulations for conducting periodic recurring testing of employees of the Administration responsible for safety-sensitive functions for use of alcohol or a controlled substance in violation of law or a Government regulation.

(c) SANCTIONS.—In prescribing regulations under the programs required by this section, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to an individual referred to in this section, or the disqualification or dismissal of the individual, under this chapter when a test conducted and confirmed under this chapter indicates the individual has used alcohol or a controlled substance in violation of law or a Government regulation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1221; Pub. L. 104–59, title III, §342(d), Nov. 28, 1995, 109 Stat. 609.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45102(a)	49 App.:1434(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §614(a); added Oct. 28, 1991, Pub. L. 102–143, §3(a), 105 Stat. 953.
45102(b)	49 App.:1434(a)(2).	
45102(c)	49 App.:1434(a)(3).	

In subsections (a)(2) and (b)(2), the word ''also'' is omitted as surplus.

AMENDMENTS

1995—Subsec. (a)(1). Pub. L. 104–59, §342(d)(1), added par. (1) and struck out former par. (1) which read as follows: ''In the interest of aviation safety, the Administrator of the Federal Aviation Administration shall prescribe regulations not later than October 28, 1992, that establish a program requiring air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as decided by the Administrator) for the use of alcohol or a controlled substance in violation of law or a United States Government regulation.''

Subsec. (b)(1). Pub. L. 104–59, §342(d)(2), added par. (1) and struck out former par. (1) which read as follows: ''The Administrator shall establish a program of preemployment, reasonable suspicion, random, and post-accident testing for the use of alcohol or a controlled substance in violation of law or a Government regulation for employees of the Administration whose duties include responsibility for safety-sensitive functions.''

RULEMAKING ON RANDOM TESTING FOR PROHIBITED DRUGS

Pub. L. 103–305, title V, §501, Aug. 23, 1994, 108 Stat. 1594, provided that: ''Not later than 180 days after the date of the enactment of this Act [Aug. 23, 1994], the Secretary shall complete a rulemaking proceeding and issue a final decision on whether there should be a reduction in the annualized rate now required by the Secretary of random testing for prohibited drugs for personnel engaged in aviation activities.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 45104, 45105 of this title.

§45103. Prohibited service

(a) USE OF ALCOHOL OR A CONTROLLED SUBSTANCE.—An individual may not use alcohol or a controlled substance after October 28, 1991, in violation of law or a United States Government regulation and serve as an airman, crewmember, airport security screening contract employee, air carrier employee responsible for safety-sensitive functions (as decided by the Administrator of the Federal Aviation Administration), or employee of the Administration with responsibility for safety-sensitive functions.

(b) REHABILITATION REQUIRED TO RESUME SERVICE.—Notwithstanding subsection (a) of this section, an individual found to have used alcohol or a controlled substance after October 28, 1991, in violation of law or a Government regulation may serve as an airman, crewmember, airport security screening contract employee, air carrier employee responsible for safety-sensitive functions (as decided by the Administrator), or employee of the Administration with responsibility for safety-sensitive functions only if the individual completes a rehabilitation program described in section 45105 of this title.

(c) PERFORMANCE OF PRIOR DUTIES PROHIBITED.—An individual who served as an airman, crewmember, airport security screening contract employee, air carrier employee responsible for safety-sensitive functions (as decided by the Administrator), or employee of the Administration with responsibility for safety-sensitive functions and who was found by the Administrator to have used alcohol or a controlled substance after October 28, 1991, in violation of law or a Government regulation may not carry out the duties related to air transportation that the individual carried out before the finding of the Administrator if the individual—

(1) used the alcohol or controlled substance when on duty;

(2) began or completed a rehabilitation program described in section 45105 of this title before using the alcohol or controlled substance; or

(3) refuses to begin or complete a rehabilitation program described in section 45105 of this title after a finding by the Administrator under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1222.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45103(a)	49 App.:1434(b)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §614(b); added Oct. 28, 1991, Pub. L. 102–143, §3(a), 105 Stat. 954.
45103(b)	49 App.:1434(b)(2).	
45103(c)	49 App.:1434(b)(3).	

In subsection (b), the words ''Notwithstanding subsection (a) of this section'' are added for clarity.

§ 45104. Testing and laboratory requirements

In carrying out section 45102 of this title, the Administrator of the Federal Aviation Administration shall develop requirements that—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;

(2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines, including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this chapter, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested; and

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this chapter;

(3) require that a laboratory involved in controlled substances testing under this chapter have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that all tests indicating the use of alcohol or a controlled substance in violation of law or a United States Government regulation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent the possibility of tampering, so that if the individual's confirmation test results are positive the individual has an opportunity to have the retained part tested by a 2d confirmation test done independently at another certified laboratory if the individual requests the 2d confirmation test not later than 3 days after being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (except information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the orderly imposition of appropriate sanctions under this chapter; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1222.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45104	49 App.:1434(d).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §614(d); added Oct. 28, 1991, Pub. L. 102–143, §3(a), 105 Stat. 955.

In this section, the word ''samples'' is omitted as surplus.

In clause (2), before subclause (A), the word ''subsequent'' is omitted as surplus.

In clause (3), the words ''of any individual'' are omitted as surplus.

In clause (4), the words ''by any individual'' are omitted as surplus.

In clause (5), the word ''tested'' is substituted for ''assayed'' for consistency. The words ''2d confirmation test'' are substituted for ''independent test'' for clarity and consistency.

In clause (6), the word ''Secretary'' is substituted for ''Department'' for consistency in the revised title and with other titles of the United States Code.

§ 45105. Rehabilitation

(a) PROGRAM FOR EMPLOYEES OF AIR CARRIERS AND FOREIGN AIR CARRIERS.—The Administrator of the Federal Aviation Administration shall prescribe regulations establishing requirements for rehabilitation programs that at least provide for the identification and opportunity for treatment of employees of air carriers and foreign air carriers referred to in section 45102(a)(1) of this title who need assistance in resolving problems with the use of alcohol or a controlled substance in violation of law or a United States Government regulation. Each air carrier and foreign air carrier is encouraged to make such a program available to all its employees in addition to the employees referred to in section 45102(a)(1). The Administrator shall decide on the circumstances under which employees shall be required to participate in a program. This subsection does not prevent an air carrier or foreign air carrier from establishing a program under this subsection in cooperation with another air carrier or foreign air carrier.

(b) PROGRAM FOR EMPLOYEES OF THE FEDERAL AVIATION ADMINISTRATION.—The Administrator shall establish and maintain a rehabilitation program that at least provides for the identification and opportunity for treatment of em-

ployees of the Administration whose duties include responsibility for safety-sensitive functions who need assistance in resolving problems with the use of alcohol or a controlled substance.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1223; Pub. L. 103–429, §6(58), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45105(a)	49 App.:1434(c)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §614(c); added Oct. 28, 1991, Pub. L. 102–143, §3(a), 105 Stat. 954.
45105(b)	49 App.:1434(c)(2).	

In subsection (a), the words ''of air carriers and foreign air carriers'' are added for clarity.

PUB. L. 103–429

This amends 49:45105(a) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1224).

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–429 substituted ''section 45102(a)(1)'' for ''section 45102(a)(1)(A)'' in second sentence.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 45103 of this title.

§ 45106. Relationship to other laws, regulations, standards, and orders

(a) EFFECT ON STATE AND LOCAL GOVERNMENT LAWS, REGULATIONS, STANDARDS, OR ORDERS.—A State or local government may not prescribe, issue, or continue in effect a law, regulation, standard, or order that is inconsistent with regulations prescribed under this chapter. However, a regulation prescribed under this chapter does not preempt a State criminal law that imposes sanctions for reckless conduct leading to loss of life, injury, or damage to property.

(b) INTERNATIONAL OBLIGATIONS AND FOREIGN LAWS.—(1) In prescribing regulations under this chapter, the Administrator of the Federal Aviation Administration—

(A) shall establish only requirements applicable to foreign air carriers that are consistent with international obligations of the United States; and

(B) shall consider applicable laws and regulations of foreign countries.

(2) The Secretaries of State and Transportation jointly shall request the governments of foreign countries that are members of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit crewmembers in international civil aviation from using alcohol or a controlled substance in violation of law or a United States Government regulation.

(c) OTHER REGULATIONS ALLOWED.—This section does not prevent the Administrator from continuing in effect, amending, or further supplementing a regulation prescribed before October 28, 1991, governing the use of alcohol or a controlled substance by airmen, crewmembers, airport security screening contract employees, air carrier employees responsible for safety-sensitive functions (as decided by the Administrator), or employees of the Administration with responsibility for safety-sensitive functions.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1224.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45106(a)	49 App.:1434(e)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §614(e); added Oct. 28, 1991, Pub. L. 102–143, §3(a), 105 Stat. 956.
45106(b)	49 App.:1434(e)(3).	
45106(c)	49 App.:1434(e)(2).	

In subsection (a), the word ''prescribe'' is substitued for ''adopt'' for consistency in the revised title and with other titles of the United States Code. The word ''rule'' is omitted as being synonymous with ''regulation''. The word ''ordinance'' is omitted as being included in ''law'' and ''regulation''. The words ''actual'' and ''whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public'' are omitted as surplus.

In subsection (c) the word ''prevent'' is substituted for ''restrict the discretion of'' to eliminate unnecessary words.

CHAPTER 453—FEES

Sec.
45301. General provisions.
45302. Fees involving aircraft not providing air transportation.
45303. Administrative provisions.
45304. Maximum fees for private person services.

AMENDMENTS

1996—Pub. L. 104–264, title II, §§273(b), 276(b), Oct. 9, 1996, 110 Stat. 3240, 3248, substituted ''General provisions'' for ''Authority to impose fees'' in item 45301, added items 45303 and 45304, and struck out former item 45303 ''Maximum fees for private person services''.

§ 45301. General provisions

(a) SCHEDULE OF FEES.—The Administrator shall establish a schedule of new fees, and a collection process for such fees, for the following services provided by the Administration:

(1) Air traffic control and related services provided to aircraft other than military and civilian aircraft of the United States government[1] or of a foreign government that neither take off from, nor land in, the United States.

(2) Services (other than air traffic control services) provided to a foreign government.

(b) LIMITATIONS.—

(1) AUTHORIZATION AND IMPACT CONSIDERATIONS.—In establishing fees under subsection (a), the Administrator—

(A) is authorized to recover in fiscal year 1997 $100,000,000; and

(B) shall ensure that each of the fees required by subsection (a) is directly related

[1] So in original. Probably should be capitalized.

to the Administration's costs of providing the service rendered. Services for which costs may be recovered include the costs of air traffic control, navigation, weather services, training and emergency services which are available to facilitate safe transportation over the United States, and other services provided by the Administrator or by programs financed by the Administrator to flights that neither take off nor land in the United States.

(2) PUBLICATION; COMMENT.—The Administrator shall publish in the Federal Register an initial fee schedule and associated collection process as an interim final rule, pursuant to which public comment will be sought and a final rule issued.

(c) USE OF EXPERTS AND CONSULTANTS.—In developing the system, the Administrator may consult with such nongovernmental experts as the Administrator may employ and the Administrator may utilize the services of experts and consultants under section 3109 of title 5 without regard to the limitation imposed by the last sentence of section 3109(b) of such title, and may contract on a sole source basis, notwithstanding any other provision of law to the contrary. Notwithstanding any other provision of law to the contrary, the Administrator may retain such experts under a contract awarded on a basis other than a competitive basis and without regard to any such provisions requiring competitive bidding or precluding sole source contract authority.

(Added Pub. L. 104–264, title II, § 273(a), Oct. 9, 1996, 110 Stat. 3239.)

PRIOR PROVISIONS

A prior section 45301, Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1225; Pub. L. 103–305, title II, § 209, Aug. 23, 1994, 108 Stat. 1589; Pub. L. 104–287, § 5(76), Oct. 11, 1996, 110 Stat. 3396; Pub. L. 105–102, § 3(d)(1)(C), Nov. 20, 1997, 111 Stat. 2215, related to authority to impose fees, prior to repeal by Pub. L. 104–264, title II, §§ 203, 273(a), Oct. 9, 1996, 110 Stat. 3227, 3239, effective 30 days after Oct. 9, 1996.

EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41742 of this title.

§ 45302. Fees involving aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) GENERAL AUTHORITY AND MAXIMUM FEES.—The Administrator of the Federal Aviation Administration may impose fees to pay for the costs of issuing airman certificates to pilots and certificates of registration of aircraft and processing forms for major repairs and alterations of fuel tanks and fuel systems of aircraft. The following fees may not be more than the amounts specified:

(1) $12 for issuing an airman's certificate to a pilot.

(2) $25 for registering an aircraft after the transfer of ownership.

(3) $15 for renewing an aircraft registration.

(4) $7.50 for processing a form for a major repair or alteration of a fuel tank or fuel system of an aircraft.

(c) ADJUSTMENTS.—The Administrator shall adjust the maximum fees established by subsection (b) of this section for changes in the Consumer Price Index of All Urban Consumers published by the Secretary of Labor.

(d) CREDIT TO ACCOUNT AND AVAILABILITY.—Money collected from fees imposed under this section shall be credited to the account in the Treasury from which the Administrator incurs expenses in carrying out chapter 441 and sections 44701–44716 of this title (except sections 44701(c), 44703(f)(2), and 44713(d)(2)). The money is available to the Administrator to pay expenses for which the fees are collected.

(e) EFFECTIVE DATE.—A fee may not be imposed under this section before the date on which the regulations prescribed under sections 44111(d), 44703(f)(2), and 44713(d)(2) of this title take effect.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1225; Pub. L. 103–429, § 6(59), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45302(a)	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7214, 102 Stat. 4434.
45302(b), (c)	49 App.:1354(f)(1)–(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 313(f); added Nov. 18, 1988, Pub. L. 100–690, § 7207(c)(1), 102 Stat. 4427.
45302(d)	49 App.:1354(f)(4).	

In subsection (b), before clause (1), the text of 49 App.:1354(f)(3) is omitted as obsolete because the final regulations are effective. The word ''impose'' is substituted for ''establish and collect'' for consistency.

In subsection (d), the words ''Money collected from fees imposed'' are substituted for ''The amount of fees collected'' for clarity and consistency.

PUB. L. 103–429

This amends 49:45302 because the final regulations are not yet effective.

AMENDMENTS

1994—Subsec. (e). Pub. L. 103–429 added subsec. (e).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

INSPECTOR GENERAL AUDIT

Pub. L. 100–690, title VII, § 7207(c)(4), Nov. 18, 1988, 102 Stat. 4428, as amended by Pub. L. 104–66, title II, § 2041, Dec. 21, 1995, 109 Stat. 728, provided that: ''During the 5-year period beginning after the date on which fees are first collected under section 313(f) of the Federal Avia-

tion Act of 1958 [see subsec. (b) of this section], the Department of Transportation Inspector General shall conduct an annual audit of the collection and use of such fees for the purpose of ensuring that such fees do not exceed the costs for which they are collected and submit to Congress a report on the results of such audit.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 45303. Administrative provisions

(a) FEES PAYABLE TO ADMINISTRATOR.—All fees imposed and amounts collected under this chapter for services performed, or materials furnished, by the Federal Aviation Administration are payable to the Administrator of the Federal Aviation Administration.

(b) REFUNDS.—The Administrator may refund any fee paid by mistake or any amount paid in excess of that required.

(c) RECEIPTS CREDITED TO ACCOUNT.—Notwithstanding section 3302 of title 31, all fees and amounts collected by the Administration, except insurance premiums and other fees charged for the provision of insurance and deposited in the Aviation Insurance Revolving Fund and interest earned on investments of such Fund, and except amounts which on September 30, 1996, are required to be credited to the general fund of the Treasury (whether imposed under this section or not)—

(1) shall be credited to a separate account established in the Treasury and made available for Administration activities;

(2) shall be available immediately for expenditure but only for congressionally authorized and intended purposes; and

(3) shall remain available until expended.

(d) ANNUAL BUDGET REPORT BY ADMINISTRATOR.—The Administrator shall, on the same day each year as the President submits the annual budget to Congress, provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

(1) a list of fee collections by the Administration during the preceding fiscal year;

(2) a list of activities by the Administration during the preceding fiscal year that were supported by fee expenditures and appropriations;

(3) budget plans for significant programs, projects, and activities of the Administration, including out-year funding estimates;

(4) any proposed disposition of surplus fees by the Administration; and

(5) such other information as those committees consider necessary.

(e) DEVELOPMENT OF COST ACCOUNTING SYSTEM.—The Administration shall develop a cost accounting system that adequately and accurately reflects the investments, operating and overhead costs, revenues, and other financial measurement and reporting aspects of its operations.

(f) COMPENSATION TO CARRIERS FOR ACTING AS COLLECTION AGENTS.—The Administration shall prescribe regulations to ensure that any air carrier required, pursuant to the Air Traffic Management System Performance Improvement Act of 1996 or any amendments made by that Act, to collect a fee imposed on another party by the Administrator may collect from such other party an additional uniform amount that the Administrator determines reflects the necessary and reasonable expenses (net of interest accruing to the carrier after collection and before remittance) incurred in collecting and handling the fee.

(Added Pub. L. 104–264, title II, § 276(a)(2), Oct. 9, 1996, 110 Stat. 3247.)

REFERENCES IN TEXT

The Air Traffic Management System Performance Improvement Act of 1996, referred to in subsec. (f), 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.

PRIOR PROVISIONS

A prior section 45303 was renumbered section 45304 of this title.

EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41742 of this title.

§ 45304. Maximum fees for private person services

The Administrator of the Federal Aviation Administration may establish maximum fees that private persons may charge for services performed under a delegation to the person under section 44702(d) of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1225, § 45303; renumbered § 45304, Pub. L. 104–264, title II, § 276(a)(1), Oct. 9, 1996, 110 Stat. 3247.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
45303	49 App.:1355(a) (last sentence related to fees). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85–726, § 314(a) (last sentence related to fees), 72 Stat. 754. Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In this section, the word ''Administrator'' in section 314(a) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 754) is retained on authority of 49:106(g). The words ''services performed under a delegation to the person under section 44702(d) of this title'' are substituted for ''their services'' because of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

SUBPART IV—ENFORCEMENT AND PENALTIES

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 40101 of this title.

CHAPTER 461—INVESTIGATIONS AND PROCEEDINGS

Sec.
46101. Complaints and investigations.
46102. Proceedings.
46103. Service of notice, process, and actions.
46104. Evidence.
46105. Regulations and orders.
46106. Enforcement by the Secretary of Transportation and Administrator of the Federal Aviation Administration.
46107. Enforcement by the Attorney General.
46108. Enforcement of certificate requirements by interested persons.
46109. Joinder and intervention.
46110. Judicial review.

§ 46101. Complaints and investigations

(a) GENERAL.—(1) A person may file a complaint in writing with the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) about a person violating this part or a requirement prescribed under this part. Except as provided in subsection (b) of this section, the Secretary or Administrator shall investigate the complaint if a reasonable ground appears to the Secretary or Administrator for the investigation.

(2) On the initiative of the Secretary of Transportation or the Administrator, as appropriate, the Secretary or Administrator may conduct an investigation, if a reasonable ground appears to the Secretary or Administrator for the investigation, about—

(A) a person violating this part or a requirement prescribed under this part; or

(B) any question that may arise under this part.

(3) The Secretary of Transportation or Administrator may dismiss a complaint without a hearing when the Secretary or Administrator is of the opinion that the complaint does not state facts that warrant an investigation or action.

(4) After notice and an opportunity for a hearing and subject to section 40105(b) of this title, the Secretary of Transportation or Administrator shall issue an order to compel compliance with this part if the Secretary or Administrator finds in an investigation under this subsection that a person is violating this part.

(b) COMPLAINTS AGAINST MEMBERS OF ARMED FORCES.—The Secretary of Transportation or Administrator shall refer a complaint against a member of the armed forces of the United States performing official duties to the Secretary of the department concerned for action. Not later than 90 days after receiving the complaint, the Secretary of that department shall inform the Secretary of Transportation or Administrator of the action taken on the complaint, including any corrective or disciplinary action taken.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1226.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46101(a)(1) ..	49 App.:1482(a) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85–726, §1002(a), (b), 72 Stat. 788.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46101(a)(2) ..	49 App.:1482(b).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46101(a)(3) ..	49 App.:1482(a) (3d sentence).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46101(a)(4) ..	49 App.:1482(c).	Aug. 23, 1958, Pub. L. 85–726, §1002(c), 72 Stat. 789; Feb. 15, 1980, Pub. L. 96–192, §25, 94 Stat. 47.
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46101(b)	49 App.:1482(a) (4th, last sentences).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	

In subsection (a)(1), the words ''the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) about a person violating this part or a requirement prescribed under this part'' are substituted for ''the Secretary of Transportation or the Board, as to matters within their respective jurisdictions . . . with respect to anything done or omitted to be done by any person in contravention of any provisions of this chapter, or of any requirement established pursuant thereto'' for clarity and because of the restatement. The words ''Except as provided in subsection (b) of this section'' are added because of the restatement of the source provisions in subsection (b) of this section. The words ''If the person complained against shall not satisfy the complaint and'' are omitted as surplus.

In subsection (a)(2), before clause (A), the words ''the Secretary of Transportation or the Administrator, as appropriate'' are substituted for ''The Secretary of Transportation or Board, with respect to matters within their respective jurisdictions'' to eliminate unnecessary words. The words ''if a reasonable ground appears to the Secretary or Administrator for the investigation'' are substituted for 49 App.:1482(b) (last sentence) for clarity and to eliminate unnecessary words. Clause (A) is substituted for ''in any case and as to any matter or thing within their respective jurisdictions, concerning which complaint is authorized to be made to or before the Secretary of Transportation or Board by any provision of this chapter . . . or relating to the enforcement of any of the provisions of this chapter'' for clarity and to eliminate unnecessary words.

In subsection (a)(4), the words ''an opportunity for a'' are added for consistency in the revised title and with other titles of the United States Code. The words ''compel compliance with this part'' are substituted for ''compel such person to comply therewith'' for clarity. The words ''in an investigation under this subsection'' are substituted for ''in any investigation instituted upon complaint or upon their own initiative'' to eliminate unnecessary words. The words ''is violating this part'' are substituted for ''has failed to comply with any provision of this chapter or any requirement established pursuant thereto'' for clarity and to eliminate unnecessary words. The words ''with respect to matters within their jurisdiction'' are omitted as unnecessary because of the restatement.

§ 46102. Proceedings

(a) CONDUCTING PROCEEDINGS.—Subject to subchapter II of chapter 5 of title 5, the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to

aviation safety duties and powers designated to be carried out by the Administrator) may conduct proceedings in a way conducive to justice and the proper dispatch of business.

(b) APPEARANCE.—A person may appear and be heard before the Secretary and the Administrator in person or by an attorney. The Secretary may appear and participate as an interested party in a proceeding the Administrator conducts under section 40113(a) of this title.

(c) RECORDING AND PUBLIC ACCESS.—Official action taken by the Secretary and Administrator under this part shall be recorded. Proceedings before the Secretary and Administrator shall be open to the public on the request of an interested party unless the Secretary or Administrator decides that secrecy is required because of national defense.

(d) CONFLICTS OF INTEREST.—The Secretary, the Administrator, or an officer or employee of the Administration may not participate in a proceeding referred to in subsection (a) of this section in which the individual has a pecuniary interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1226.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46102(a)	49 App.:1481 (1st sentence). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85–726, §1001, 72 Stat. 788. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704. Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46102(b)	49 App.:1481 (3d, 4th sentences). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	
46102(c)	49 App.:1481 (last sentence). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	
46102(d)	49 App.:1481 (2d sentence). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	

In subsection (a), the cross-reference to chapter 7 of title 5 is omitted as unnecessary.

In subsection (b), the text of 49 App.:1481 (4th sentence words after last comma) is omitted as obsolete. The words ''National Transportation Safety Board'' were substituted for ''Board'' in 49 App.:1481 (4th sentence) because 49 App.:1655(d) transferred all functions, duties, and powers of the Civil Aeronautics Board under titles VI and VII of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 775) to the Secretary of Transportation to be carried out through the former National Transportation Safety Board in the Department of Transportation. Title VI includes sections 602 and 609 [49 App.:1422, 1429], that provide for appeals to the Civil Aeronautics Board (subsequently transferred to the National Transportation Safety Board), and section 611(e) [49 App.:1431(e)], that provides for appeals to the National Transportation Safety Board. Under 49 App.:1902(a), the National Transportation Safety Board in the Department of Transportation was replaced by an independent National Transportation Safety Board outside the Department, and 49 App.:1903(a)(9)(A) gave the independent Board the authority to review appeals from actions of the Secretary under 49 App.:1422, 1429, and 1431(e).

In subsection (c), the words ''vote and'' are omitted as surplus.

In subsection (d), the words ''officer or employee of the Administration'' are substituted for ''member'' for clarity and consistency in the revised title and with other titles of the United States Code. The words ''hearing or'' are omitted as surplus. The words ''referred to in subsection (a) of this section'' are added for clarity.

§ 46103. Service of notice, process, and actions

(a) DESIGNATING AGENTS.—(1) Each air carrier and foreign air carrier shall designate an agent on whom service of notice and process in a proceeding before, and an action of, the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may be made.

(2) The designation—

(A) shall be in writing and filed with the Secretary or Administrator; and

(B) may be changed in the same way as originally made.

(b) SERVICE.—(1) Service may be made—

(A) by personal service;

(B) on a designated agent; or

(C) by certified or registered mail to the person to be served or the designated agent of the person.

(2) The date of service made by certified or registered mail is the date of mailing.

(c) SERVING AGENTS.—Service on an agent designated under this section shall be made at the office or usual place of residence of the agent. If an air carrier or foreign air carrier does not have a designated agent, service may be made by posting the notice, process, or action in the office of the Secretary or Administrator.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1227.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46103(a)	49 App.:1485(b) (1st sentence). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85–726, §1005(b), 72 Stat. 794.. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704. Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46103(b)	49 App.:1485(c).	Aug. 23, 1958, Pub. L. 85–726, §1005(c), 72 Stat. 794; restated Aug. 25, 1959, Pub. L. 86–199, 73 Stat. 427.
46103(c)	49 App.:1485(b) (last sentence). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	

In subsection (a)(1), the words ''in a proceeding before'' are added for clarity. The word ''action'' is substituted for ''orders, decisions, and requirements'' to eliminate unnecessary words. The words ''for and on behalf of said carrier'' are omitted as surplus.

In subsection (a)(2)(B), the words ''from time to time'' are omitted as surplus.

In subsection (b)(1)(B), the words ''in writing for the purpose'' are omitted as surplus.

In subsection (b)(1)(C), the word ''addressed'' is omitted as surplus.

In subsection (b)(2), the word ''date'' is substituted for ''time'' for clarity and consistency.

In subsection (c), the words ''with like effect as if made personally upon such carrier'' are omitted as surplus.

§ 46104. Evidence

(a) GENERAL.—In conducting a hearing or investigation under this part, the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may—

(1) subpena witnesses and records related to a matter involved in the hearing or investigation from any place in the United States to the designated place of the hearing or investigation;

(2) administer oaths;

(3) examine witnesses; and

(4) receive evidence at a place in the United States the Secretary or Administrator designates.

(b) COMPLIANCE WITH SUBPENAS.—If a person disobeys a subpena, the Secretary, the Administrator, or a party to a proceeding before the Secretary or Administrator may petition a court of the United States to enforce the subpena. A judicial proceeding to enforce a subpena under this section may be brought in the jurisdiction in which the proceeding or investigation is conducted. The court may punish a failure to obey an order of the court to comply with the subpena as a contempt of court.

(c) DEPOSITIONS.—(1) In a proceeding or investigation, the Secretary or Administrator may order a person to give testimony by deposition and to produce records. If a person fails to be deposed or to produce records, the order may be enforced in the same way a subpena may be enforced under subsection (b) of this section.

(2) A deposition may be taken before an individual designated by the Secretary or Administrator and having the power to administer oaths.

(3) Before taking a deposition, the party or the attorney of the party proposing to take the deposition must give reasonable notice in writing to the opposing party or the attorney of record of that party. The notice shall state the name of the witness and the time and place of taking the deposition.

(4) The testimony of a person deposed under this subsection shall be under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent. Each deposition shall be filed promptly with the Secretary or Administrator.

(5) If the laws of a foreign country allow, the testimony of a witness in that country may be taken by deposition—

(A) by a consular officer or an individual commissioned by the Secretary or Administrator or agreed on by the parties by written stipulation filed with the Secretary or Administrator; or

(B) under letters rogatory issued by a court of competent jurisdiction at the request of the Secretary or Administrator.

(d) WITNESS FEES AND MILEAGE AND CERTAIN FOREIGN COUNTRY EXPENSES.—A witness summoned before the Secretary or Administrator or whose deposition is taken under this section and the individual taking the deposition are each entitled to the same fee and mileage that the witness and individual would have been paid for those services in a court of the United States. Under regulations of the Secretary or Administrator, the Secretary or Administrator shall pay the necessary expenses incident to executing, in another country, a commission or letter rogatory issued at the initiative of the Secretary or Administrator.

(e) DESIGNATING EMPLOYEES TO CONDUCT HEARINGS.—When designated by the Secretary or Administrator, an employee appointed under section 3105 of title 5 may conduct a hearing, subpena witnesses, administer oaths, examine witnesses, and receive evidence at a place in the United States the Secretary or Administrator designates. On request of a party, the Secretary or Administrator shall hear or receive argument.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1227.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46104(a)	49 App.:1354(c) (related to this chapter).	Aug. 23, 1958, Pub. L. 85–726, §§ 313(c) (related to this Act), 1004(a)–(h), 72 Stat. 753, 792.
	49 App.:1484(a) (related to member of the Board), (b) (1st sentence), (c) (1st sentence).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46104(b)	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(c) (last sentence), (d).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(c)(1) ..	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(e) (1st, last sentences).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(c)(2) ..	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(e) (2d sentence).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(c)(3) ..	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(e) (3d sentence).	
	49 App.:1655(c)(1).	
46104(c)(4) ..	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(f).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(c)(5) ..	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(g).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(d)	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(b) (last sentence), (h).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46104(e)	49 App.:1354(c) (related to this chapter).	
	49 App.:1484(a) (related to examiner).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in section 313(c) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 753) is retained on authority of 49:106(g).

Subsection (a)(1) is substituted for ''sign and issue subpenas'', ''shall have the power to require by subpena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation'', and ''The attendance of witnesses, and the production of books, papers, and documents, may be required from any place in the United States, at any designated place of hearing'' in 49 App.:1484 for clarity and consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

In subsection (b), the words ''petition a court of the United States to enforce the subpena'' are substituted for ''invoke the aid of any court of the United States in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this section'' in 49 App.:1484(c) to eliminate unnecessary words. The words ''to enforce a subpena under this section'' are substituted for ''in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear before the Board (and produce books, papers, or documents if so ordered) and give evidence touching the matter in question'' in 49 App.:1484(d) to eliminate unnecessary words.

In subsection (c)(1), the words ''pending before it, at any stage of such proceeding or investigation'' in 49 App.:1484(e) are omitted as surplus. The words ''a person to give'' are substituted for ''to be taken'', and the words ''to produce records'' are added, for clarity and consistency. The last sentence is substituted for 49 App.:1484(e) (last sentence) for clarity and consistency and to eliminate unnecessary words.

In subsection (c)(4), the words ''shall be cautioned . . . to testify the whole truth, and shall be carefully examined'' in 49 App.:1484(f) are omitted as surplus. The words ''shall be under oath'' are substituted for ''shall be required to swear (or affirm, if he so requests)'' for consistency and because of 1:1.

In subsection (d), the words ''that the witness and individual would have been'' are added for clarity and consistency in the revised title and with other titles of the Code. The words ''fees, charges, or'' and ''on the subject'' are omitted as surplus.

In subsection (e), the words ''duly . . . for such purpose'' are omitted as surplus. The words ''employee appointed under section 3105 of title 5'' are substituted for ''examiner'', and the words ''subpena witnesses'' are substituted for ''sign and issue subpenas'', for consistency in the revised title and with other titles of the Code. The words ''In all cases heard by an examiner or a single member'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 47122 of this title.

§ 46105. Regulations and orders

(a) EFFECTIVENESS OF ORDERS.—Except as provided in this part, a regulation prescribed or order issued by the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) takes effect within a reasonable time prescribed by the Secretary or Administrator. The regulation or order remains in effect under its own terms or until superseded. Except as provided in this part, the Secretary or Administrator may amend, modify, or suspend an order in the way, and by giving the notice, the Secretary or Administrator decides.

(b) CONTENTS AND SERVICE OF ORDERS.—An order of the Secretary or Administrator shall include the findings of fact on which the order is based and shall be served on the parties to the proceeding and the persons affected by the order.

(c) EMERGENCIES.—When the Administrator is of the opinion that an emergency exists related to safety in air commerce and requires immediate action, the Administrator, on the initiative of the Administrator or on complaint, may prescribe regulations and issue orders immediately to meet the emergency, with or without notice and without regard to this part and subchapter II of chapter 5 of title 5. The Administrator shall begin a proceeding immediately about an emergency under this subsection and give preference, when practicable, to the proceeding.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1228.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46105(a)	49 App.:1485(a) (words before 1st proviso), (d), (e).	Aug. 23, 1958, Pub. L. 85–726, § 1005(a), (d)–(f), 72 Stat. 794.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46105(b)	49 App.:1485(f). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	
46105(c)	49 App.:1485(a) (provisos). 49 App.:1655(c)(1).	

In subsection (a), the words ''under its own terms or until superseded'' are substituted for ''until their further order, rule, or regulation, or for a specified period of time, as shall be prescribed in the order, rule, or regulation'' for clarity and to eliminate unnecessary words. The word ''amend'' is added for consistency in the revised title. The text of 49 App.:1485(e) is omitted as surplus.

In subsection (c), the words ''without complaint'' and ''if he so orders'' are omitted as surplus. The words ''prescribe . . . issue'' are substituted for ''make'' for consistency in the revised title and with other titles of the United States Code. The words ''just and reasonable'' and ''as may be essential in the interest of safety in air commerce'' are omitted as surplus. The words ''without regard to this part and subchapter II of chapter 5 of title 5'' are substituted for ''without answer or other form of pleading by the interested person or persons, and . . . hearing, or the making or filing of a report'' to eliminate unnecessary words. The words ''over all others under this chapter'' are omitted as surplus.

§ 46106. Enforcement by the Secretary of Transportation and Administrator of the Federal Aviation Administration

The Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may bring a civil action against a person in a district court of the United States to

enforce this part or a requirement or regulation prescribed, or an order or any term of a certificate or permit issued, under this part. The action may be brought in the judicial district in which the person does business or the violation occurred.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1229.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46106	49 App.:1487(a) (related to Secretary and CAB).	Aug. 23, 1958, Pub. L. 85–726, §1007(a) (related to Administrator and CAB), 72 Stat. 796.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

The words ''their duly authorized agents'' are omitted as surplus. The words ''may bring a civil action'' are substituted for ''may apply'' for consistency in the revised title and with other titles of the United States Code and rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The word ''prescribed'' is added for consistency in the revised title and with other titles of the Code. The words ''condition, or limitation'' are omitted as being included in ''term''. The text of 49 App.:1487(a) (words after semicolon related to Secretary and CAB) is omitted as surplus because of 28:1651 and rule 81(b) of the Federal Rules of Civil Procedure (28 App. U.S.C.).

§ 46107. Enforcement by the Attorney General

(a) CIVIL ACTIONS TO ENFORCE SECTION 40106(b).—The Attorney General may bring a civil action in a district court of the United States against a person to enforce section 40106(b) of this title. The action may be brought in the judicial district in which the person does business or the violation occurred.

(b) CIVIL ACTIONS TO ENFORCE THIS PART.—(1) On request of the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator), the Attorney General may bring a civil action in an appropriate court—

(A) to enforce this part or a requirement or regulation prescribed, or an order or any term of a certificate or permit issued, under this part; and

(B) to prosecute a person violating this part or a requirement or regulation prescribed, or an order or any term of a certificate or permit issued, under this part.

(2) The costs and expenses of a civil action shall be paid out of the appropriations for the expenses of the courts of the United States.

(c) PARTICIPATION OF SECRETARY OR ADMINISTRATOR.—On request of the Attorney General, the Secretary or Administrator, as appropriate, may participate in a civil action under this part.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1229.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46107(a)	49 App.:1487(a) (related to Attorney General).	Aug. 23, 1958, Pub. L. 85–726, §1007(a) (related to Attorney General), 72 Stat. 796; Aug. 5, 1974, Pub. L. 93–366, §108, 88 Stat. 414.
46107(b)	49 App.:1487(b) (related to Secretary and CAB).	Aug. 23, 1958, Pub. L. 85–726, §§1007(b) (related to Administrator and CAB), 1008 (related to Administrator and CAB), 72 Stat. 796.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46107(c)	49 App.:1488 (related to Secretary and CAB).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	

In subsection (a), the words ''may bring a civil action'' are substituted for ''may apply'' for consistency in the revised title and with other titles of the United States Code and rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The text of 49 App.:1487(a) (words after semicolon related to Attorney General) is omitted as surplus because of 28:1651 and rule 81(b) of the Federal Rules of Civil Procedure.

In subsection (b)(1), before clause (A), the words ''Attorney General'' are substituted for ''any district attorney of the United States to whom the Board or Secretary of Transportation may apply'', and the words ''under the direction of the Attorney General'' are omitted, because of 28:503 and 509. The words ''bring a civil action'' are substituted for ''institute . . . and to prosecute . . . all necessary proceedings'' for consistency in the revised title and with other titles of the Code and rule 2 of the Federal Rules of Civil Procedure. In clauses (A) and (B), the words ''prescribed'' and ''issued'' are added for consistency in the revised title and with other titles of the Code. The words ''condition, or limitation'' are omitted as being included in ''term''.

In subsection (b)(2), the words ''civil action'' are substituted for ''prosecutions'' for consistency in the revised title and with other titles of the Code.

In subsection (c), the words ''civil action'' are substituted for ''proceeding in court'' for consistency in the revised title and with other titles of the Code and rule 2 of the Federal Rules of Civil Procedure.

§ 46108. Enforcement of certificate requirements by interested persons

An interested person may bring a civil action in a district court of the United States against a person to enforce section 41101(a)(1) of this title. The action may be brought in the judicial district in which the defendant does business or the violation occurred.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1229.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46108	49 App.:1487(a) (related to party in interest).	Aug. 23, 1958, Pub. L. 85–726, §1007(a) (related to party in interest), 72 Stat. 796.

The words ''interested person'' are substituted for ''party in interest'' for consistency. The words ''may bring a civil action'' are substituted for ''may apply'' for consistency in the revised title and with other titles of the United States Code and rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The text of 49

App.:1487(a) (words after semicolon related to party in interest) is omitted as surplus because of 28:1651 and rule 81(b) of the Federal Rules of Civil Procedure.

§ 46109. Joinder and intervention

A person interested in or affected by a matter under consideration in a proceeding before the Secretary of Transportation or civil action to enforce this part or a requirement or regulation prescribed, or an order or any term of a certificate or permit issued, under this part may be joined as a party or permitted to intervene in the proceeding or civil action.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1230.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46109	49 App.:1489.	Aug. 23, 1958, Pub. L. 85–726, §1009, 72 Stat. 796.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

The words ''proceeding . . . or civil action'' are substituted for ''proceeding . . . whether such proceedings be instituted . . . or be begun originally in any court of the United States'' for consistency in the revised title and with other titles of the United States Code and rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''prescribed . . . issued'' are added for consistency in the revised title and with other titles of the Code. The words ''condition, or limitation'' are omitted as being included in ''term''. The words ''may be joined as a party or permitted to intervene'' are substituted for ''it shall be lawful to include as parties, or to permit the intervention of'' for clarity. The text of 49 App.:1489 (words after semicolon) is omitted as surplus.

§ 46110. Judicial review

(a) FILING AND VENUE.—Except for an order related to a foreign air carrier subject to disapproval by the President under section 41307 or 41509(f) of this title, a person disclosing a substantial interest in an order issued by the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) under this part may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 60 days after the order is issued. The court may allow the petition to be filed after the 60th day only if there are reasonable grounds for not filing by the 60th day.

(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary or Administrator, as appropriate. The Secretary or Administrator shall file with the court a record of any proceeding in which the order was issued, as provided in section 2112 of title 28.

(c) AUTHORITY OF COURT.—When the petition is sent to the Secretary or Administrator, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order and may order the Secretary or Administrator to conduct further proceedings. After reasonable notice to the Secretary or Administrator, the court may grant interim relief by staying the order or taking other appropriate action when good cause for its action exists. Findings of fact by the Secretary or Administrator, if supported by substantial evidence, are conclusive.

(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing an order under this section, the court may consider an objection to an order of the Secretary or Administrator only if the objection was made in the proceeding conducted by the Secretary or Administrator or if there was a reasonable ground for not making the objection in the proceeding.

(e) SUPREME COURT REVIEW.—A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1230.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46110(a)	49 App.:1486(a), (b) (as 1486(a), (b) relates to Secretary and CAB).	Aug. 23, 1958, Pub. L. 85–726, §1006(a), (b), (e), (f) (as §1006(a), (b), (e), (f) relates to Administrator and CAB), 72 Stat. 795.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46110(b)	49 App.:1486(c) (related to Secretary and CAB).	Aug. 23, 1958, Pub. L. 85–726, §1006(c) (related to Administrator and CAB), 72 Stat. 795; restated June 29, 1960, Pub. L. 86–546, §1, 74 Stat. 255.
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46110(c)	49 App.:1486(d) (related to Secretary and CAB).	Aug. 23, 1958, Pub. L. 85–726, §1006(d) (related to Administrator and CAB), 72 Stat. 795; restated Sept. 13, 1961, Pub. L. 87–225, §2, 75 Stat. 497.
	49 App.:1486(e) (1st sentence related to Secretary and CAB).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46110(d)	49 App.:1486(e) (last sentence) (related to Secretary and CAB).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	
46110(e)	49 App.:1486(f) (related to Secretary and CAB).	
	49 App.:1551(b)(1)(E).	
	49 App.:1655(c)(1).	

In subsections (a)–(d), the word ''Administrator'' in section 1006 of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 795) is retained on authority of 49:106(g).

In subsection (a), the words ''affirmative or negative'' are omitted as surplus. The words ''is issued'' are substituted for ''the entry of'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words ''if any'' are omitted as surplus. The words ''of any proceeding'' are added for clarity. The words ''complained of'' are omitted as surplus.

In subsection (c), the word ''amend'' is added for consistency in the revised title. The word ''interim'' is substituted for ''interlocutory'' for clarity. The words ''taking other appropriate action'' are substituted for ''by such mandatory or other relief as may be appropriate'' for clarity and to eliminate unnecessary words.

In subsection (d), the words ''made in the proceeding conducted by'' are substituted for ''urged before'' for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1153, 41108, 41307, 44106, 44709, 44710, 46301, 47532 of this title.

CHAPTER 463—PENALTIES

Sec.
46301. Civil penalties.
46302. False information.
46303. Carrying a weapon.
46304. Liens on aircraft.
46305. Actions to recover civil penalties.
46306. Registration violations involving aircraft not providing air transportation.
46307. Violation of national defense airspace.
46308. Interference with air navigation.
46309. Concession and price violations.
46310. Reporting and recordkeeping violations.
46311. Unlawful disclosure of information.
46312. Transporting hazardous material.
46313. Refusing to appear or produce records.
46314. Entering aircraft or airport area in violation of security requirements.
46315. Lighting violations involving transporting controlled substances by aircraft not providing air transportation.
46316. General criminal penalty when specific penalty not provided.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 47531 of this title.

§ 46301. Civil penalties

(a) GENERAL PENALTY.—(1) A person is liable to the United States Government for a civil penalty of not more than $1,000 for violating—

(A) chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 411, chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714), chapter 419, subchapter II of chapter 421, chapter 441 (except section 44109), section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), and 44908), or section 46302, 46303, or 47107(b) (including any assurance made under such section) of this title;

(B) a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies;

(C) any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title; or

(D) a regulation of the United States Postal Service under this part.

(2) A person operating an aircraft for the transportation of passengers or property for compensation (except an airman serving as an airman) is liable to the Government for a civil penalty of not more than $10,000 for violating—

(A) chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117), section 44502(b) or (c), chapter 447 (except sections 44717–44723), or chapter 449 (except sections 44902, 44903(d), 44904, and 44907–44909) of this title; or

(B) a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies.

(3) A civil penalty of not more than $10,000 may be imposed for each violation under paragraph (1) of this subsection related to—

(A) the transportation of hazardous material; or

(B) the registration or recordation under chapter 441 of this title of an aircraft not used to provide air transportation.

(4) A separate violation occurs under this subsection for each day the violation (other than a violation of section 41715) continues or, if applicable, for each flight involving the violation (other than a violation of section 41715).

(5) PENALTY FOR DIVERSION OF AVIATION REVENUES.—The amount of a civil penalty assessed under this section for a violation of section 47107(b) of this title (or any assurance made under such section) or section 47133 of this title may be increased above the otherwise applicable maximum amount under this section to an amount not to exceed 3 times the amount of revenues that are used in violation of such section.

(6) Notwithstanding paragraph (1), the maximum civil penalty for violating section 41715 shall be $5,000 instead of $1,000.

(b) SMOKE ALARM DEVICE PENALTY.—(1) A passenger may not tamper with, disable, or destroy a smoke alarm device located in a lavatory on an aircraft providing air transportation or intrastate air transportation.

(2) An individual violating this subsection is liable to the Government for a civil penalty of not more than $2,000.

(c) PROCEDURAL REQUIREMENTS.—(1) The Secretary of Transportation may impose a civil penalty for the following violations only after notice and an opportunity for a hearing:

(A) a violation of subsection (b) of this section or chapter 411, chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714), chapter 419, subchapter II of chapter 421, or section 44909 of this title.

(B) a violation of a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies.

(C) a violation of any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title.

(D) a violation under subsection (a)(1) of this section related to the transportation of hazardous material.

(2) The Secretary shall give written notice of the finding of a violation and the civil penalty under paragraph (1) of this subsection.

(d) ADMINISTRATIVE IMPOSITION OF PENALTIES.—(1) In this subsection—

(A) ''flight engineer'' means an individual who holds a flight engineer certificate issued under part 63 of title 14, Code of Federal Regulations.

(B) ''mechanic'' means an individual who holds a mechanic certificate issued under part 65 of title 14, Code of Federal Regulations.

(C) ''pilot'' means an individual who holds a pilot certificate issued under part 61 of title 14, Code of Federal Regulations.

(D) ''repairman'' means an individual who holds a repairman certificate issued under part 65 of title 14, Code of Federal Regulations.

(2) The Administrator of the Federal Aviation Administration may impose a civil penalty for a violation of chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117), chapter 441 (except section 44109), section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), 44908, and 44909), or section 46302, 46303, or 47107(b) (as further defined by the Secretary under section 47107(*l*) and including any assurance made under section 47107(b)) of this title or a regulation prescribed or order issued under any of those provisions. The Administrator shall give written notice of the finding of a violation and the penalty.

(3) In a civil action to collect a civil penalty imposed by the Administrator under this subsection, the issues of liability and the amount of the penalty may not be reexamined.

(4) Notwithstanding paragraph (2) of this subsection, the district courts of the United States have exclusive jurisdiction of a civil action involving a penalty the Administrator initiates if—

(A) the amount in controversy is more than $50,000;

(B) the action is in rem or another action in rem based on the same violation has been brought;

(C) the action involves an aircraft subject to a lien that has been seized by the Government; or

(D) another action has been brought for an injunction based on the same violation.

(5)(A) The Administrator may issue an order imposing a penalty under this subsection against an individual acting as a pilot, flight engineer, mechanic, or repairman only after advising the individual of the charges or any reason the Administrator relied on for the proposed penalty and providing the individual an opportunity to answer the charges and be heard about why the order shall not be issued.

(B) An individual acting as a pilot, flight engineer, mechanic, or repairman may appeal an order imposing a penalty under this subsection to the National Transportation Safety Board. After notice and an opportunity for a hearing on the record, the Board shall affirm, modify, or reverse the order. The Board may modify a civil penalty imposed to a suspension or revocation of a certificate.

(C) When conducting a hearing under this paragraph, the Board is not bound by findings of fact of the Administrator but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law.

(D) When an individual files an appeal with the Board under this paragraph, the order of the Administrator is stayed.

(6) An individual substantially affected by an order of the Board under paragraph (5) of this subsection, or the Administrator when the Administrator decides that an order of the Board under paragraph (5) will have a significant adverse impact on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

(7)(A) The Administrator may impose a penalty on an individual (except an individual acting as a pilot, flight engineer, mechanic, or repairman) only after notice and an opportunity for a hearing on the record.

(B) In an appeal from a decision of an administrative law judge as the result of a hearing under subparagraph (A) of this paragraph, the Administrator shall consider only whether—

(i) each finding of fact is supported by a preponderance of reliable, probative, and substantial evidence;

(ii) each conclusion of law is made according to applicable law, precedent, and public policy; and

(iii) the judge committed a prejudicial error that supports the appeal.

(C) Except for good cause, a civil action involving a penalty under this paragraph may not be initiated later than 2 years after the violation occurs.

(D) In the case of a violation of section 47107(b) of this title or any assurance made under such section—

(i) a civil penalty shall not be assessed against an individual;

(ii) a civil penalty may be compromised as provided under subsection (f); and

(iii) judicial review of any order assessing a civil penalty may be obtained only pursuant to section 46110 of this title.

(8) The maximum civil penalty the Administrator or Board may impose under this subsection is $50,000.

(9) This subsection applies only to a violation occurring after August 25, 1992.

(e) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under subsection (a)(3) of this section related to transportation of hazardous material, the Secretary shall consider—

(1) the nature, circumstances, extent, and gravity of the violation;

(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(3) other matters that justice requires.

(f) COMPROMISE AND SETOFF.—(1)(A) The Secretary may compromise the amount of a civil penalty imposed for violating—

(i) chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 441 (except section 44109), section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), or chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), 44908, and 44909) of this title; or

(ii) a regulation prescribed or order issued under any provision to which clause (i) of this subparagraph applies.

(B) The Postal Service may compromise the amount of a civil penalty imposed under subsection (a)(1)(D) of this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

(g) JUDICIAL REVIEW.—An order of the Secretary imposing a civil penalty may be reviewed judicially only under section 46110 of this title.

(h) NONAPPLICATION.—(1) This section does not apply to the following when performing official duties:

(A) a member of the armed forces of the United States.

(B) a civilian employee of the Department of Defense subject to the Uniform Code of Military Justice.

(2) The appropriate military authority is responsible for taking necessary disciplinary action and submitting to the Secretary (or the Administrator with respect to aviation safety duties and powers designated to be carried out by the Administrator) a timely report on action taken.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1231; Pub. L. 103–305, title I, § 112(c), title II, § 207(c), Aug. 23, 1994, 108 Stat. 1575, 1588; Pub. L. 103–429, § 6(60), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–264, title V, § 502(c), title VIII, § 804(b), title XII, § 1220(b), Oct. 9, 1996, 110 Stat. 3263, 3271, 3286; Pub. L. 104–287, § 5(77), Oct. 11, 1996, 110 Stat. 3396; Pub. L. 105–102, § 3(c)(4), Nov. 20, 1997, 111 Stat. 2215.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46301(a)	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7214, 102 Stat. 4434.
	49 App.:1405 (last sentence).	Aug. 23, 1958, Pub. L. 85–726, § 505 (last sentence), 72 Stat. 774.
	49 App.:1471(a)(1) (1st, 2d sentences less subchapter VII).	Aug. 23, 1958, Pub. L. 85–726, § 901(a)(1) (less title VII), 72 Stat. 783; restated July 10, 1962, Pub. L. 87–528, § 12, 76 Stat. 149; Aug. 5, 1974, Pub. L. 93–366, § 107, 88 Stat. 414; Jan. 3, 1975, Pub. L. 93–633, § 113(b), 88 Stat. 2162; Oct. 24, 1978, Pub. L. 95–504, § 35(a), 92 Stat. 1740; Aug. 8, 1985, Pub. L. 99–83, § 551(b)(2), 99 Stat. 225; Dec. 30, 1987, Pub. L. 100–223, § 204(a)–(c), 101 Stat. 1519; Nov. 18, 1988, Pub. L. 100–690, § 7208(a), 102 Stat. 4429.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
46301(b)	49 App.:1374(d)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 404(d)(2); added Dec. 22, 1987, Pub. L. 100–202, § 328(a), 101 Stat. 1329–383.
46301(c)	49 App.:1471(a)(1) (3d, 5th sentences less subchapter VII).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46301(d)(1) ..	49 App.:1471(a)(3)(H).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 901(a)(3) (less (D)(v) (related to Administrator under title VII)); added Nov. 18, 1988, Pub. L. 100–690, § 7208(b), 102 Stat. 4429; restated Aug. 26, 1992, Pub. L. 102–345, § 2(a), 106 Stat. 923; Oct. 31, 1992, Pub. L. 102–581, § 208, 106 Stat. 4895.
46301(d)(2) ..	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7214, 102 Stat. 4434.
	49 App.:1471(a)(3)(A).	
46301(d)(3) ..	49 App.:1471(a)(3)(B).	
46301(d)(4) ..	49 App.:1471(a)(3)(C).	
46301(d)(5) ..	49 App.:1471(a)(3)(D)(i)–(iv).	
46301(d)(6) ..	49 App.:1471(a)(3)(D)(v) (less Administrator under subch. VII).	
46301(d)(7) ..	49 App.:1471(a)(3)(E).	
46301(d)(8) ..	49 App.:1471(a)(3)(G).	
46301(d)(9) ..	49 App.:1471(a)(3)(F).	
46301(e)	49 App.:1471(a)(1) (4th sentence less subchapter VII).	
46301(f)	49 App.:1471(a)(2) (related to subchapter III, V, VI, or XII, § 1501, 1514, or 1515(e)(2)(B), and Postal Service).	Aug. 23, 1958, Pub. L. 85–726, § 901(a)(2) (related to title III, V, VI, or XII, § 1101, 1114, or 1115(e)(2)(B), and Postmaster General), 72 Stat. 784; July 10, 1962, Pub. L. 87–528, § 12, 76 Stat. 150; restated Oct. 24, 1978, Pub. L. 95–504, § 35(b), 92 Stat. 1740; Dec. 30, 1987, Pub. L. 100–223, § 204(d), 101 Stat. 1519.
	49 App.:1551(b)(1)(E).	
46301(g)	49 App.:1471(a)(1) (6th sentence less subchapter VII).	
	49 App.:1551(b)(1)(E).	
46301(h)	49 App.:1471(a)(1) (last sentence less subchapter VII).	
	49 App.:1551(b)(1)(E).	

In this section, the word ''prescribed'' is added for consistency in the revised title and with other titles of the United States Code. The words ''United States Postal Service'' and ''Postal Service'' are substituted for ''Postmaster General'' because of section 4(a) of the Postal Reorganization Act (Public Law 91–375, 84 Stat. 773).

In subsections (a)(1)(C) and (c), the words ''condition, or limitation'' are omitted as surplus.

In subsection (a)(2), before clause (A), the words ''occurring after December 30, 1987'' are omitted as obsolete.

In subsection (b)(1), the word ''providing'' is substituted for ''engaged in'' for consistency in the revised title.

In subsection (b)(2), the words ''in accordance with section 1471 of this Appendix'' are omitted as surplus.

In subsection (c)(1), before clause (A), the words ''or his delegate'' are omitted because of 49:322(b). The word ''impose'' is substituted for ''assessed'' for consistency. The words ''amount of any such'' are omitted as surplus.

In subsection (d), the word ''impose'' is substituted for ''assess'' for consistency.

In subsection (d)(1), before clause (A), the words ''the following definitions apply'' are omitted as surplus.

In subsection (d)(2), the text of section 7214 of the Anti-Drug Abuse Act of 1988 (Public Law 100–690, 102 Stat 4434) is omitted as obsolete. The words ''or the delegate of the Administrator'' are omitted because of 49:322(b).

In subsection (d)(4)(C), the word ''or'' is substituted for ''and'' for clarity.

In subsection (d)(5)(B) and (7)(A), the words ''in accordance with section 554 of title 5'' are omitted for

consistency in the revised title and because 5:554 applies to a hearing on the record unless otherwise stated.

In subsection (d)(5)(B), the words ''consistent with this subsection'' are omitted as surplus.

In subsection (d)(5)(C), the word ''Administrator'' is substituted for ''Federal Aviation Administration'' because of 49:106(b) and (g).

In subsection (d)(7)(B), before clause (i), the words ''as the result of a hearing under subparagraph (A) of this paragraph'' are added for clarity.

In subsection (e), before clause (1), the words ''civil penalty under subsection (a)(3) of this section related to transportation of hazardous material'' are substituted for ''such penalty'' for clarity. In clause (1), the word ''committed'' is omitted as surplus.

In subsection (f)(2), the word ''imposed'' is substituted for ''when finally determined or fixed by order of the Board'' for consistency. The words ''agreed upon'' are omitted as surplus.

In subsection (g), the word ''imposing'' is substituted for ''assessing'' for consistency.

In subsection (h)(2), the words ''with respect thereto'' are omitted as surplus. The word ''Administrator'' in section 901(a)(1) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 783) is retained on authority of 49:106(g).

PUB. L. 103–429

This amends 49:46301(a)(1)(A) and (2)(A), (c)(1)(A), (d)(2), and (f)(1)(A)(i) to correct erroneous cross-references.

PUB. L. 104–287, §5(77)(A) AND (B)

These amend 49:46301(a)(1)(A) and (2)(A) to correct errors in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1231), to include in the cross-reference sections enacted after the cutoff date for the codification of title 49 as enacted by section 1 of the Act (Public Law 103–272, 108 Stat. 745), and to make it easier to include future sections in the cross-reference by restating it in terms of chapters.

PUB. L. 104–287, §5(77)(C)

This makes a conforming amendment to 49:46301(a)(3).

PUB. L. 104–287, §5(77)(D)–(F)

These amend 49:46301(c)(1)(A), (d)(2), and (f)(1)(A)(i) to correct errors in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1231), to include in the cross-reference sections enacted after the cutoff date for the codification of title 49 as enacted by section 1 of the Act (Public Law 103–272, 108 Stat. 745), and to make it easier to include future sections in the cross-reference by restating it in terms of chapters.

AMENDMENTS

1997—Subsecs. (a)(1)(A), (2)(A), (d)(2), (f)(1)(A)(i). Pub. L. 105–102 repealed Pub. L. 104–264, §§502(c), 1220(b). See 1996 Amendment notes below.

1996—Subsec. (a)(1)(A). Pub. L. 104–287, §5(77)(A)(iii), (iv), inserted ''or'' after ''46303,'' and struck out '', or 41715'' after ''under such section)''.

Pub. L. 104–287, §5(77)(A)(ii), substituted ''section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), and 44908), or section'' for ''or any of sections 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44909(a), 44912–44915, 44932–44938,''.

Pub. L. 104–287, §5(77)(A)(i), substituted ''chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714),'' for ''any of sections 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, or 41731–41742,''.

Pub. L. 104–264, §1220(b), which directed amendment of subpar. (A) by inserting ''44718(d),'' after ''44716,'', was repealed by Pub. L. 105–102.

Pub. L. 104–264, §502(c)(1), which directed amendment of subpar. (A) by inserting ''44724,'' after ''44718(d),'', was repealed by Pub. L. 105–102.

Subsec. (a)(2)(A). Pub. L. 104–287, §5(77)(B), substituted '', section 44502(b) or (c), chapter 447 (except sections 44717–44723), or chapter 449 (except sections 44902, 44903(d), 44904, and 44907–44909)'' for ''or any of sections 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44912–44915, or 44932–44938''.

Pub. L. 104–264, §502(c)(2), which directed amendment of subpar. (A) by inserting ''44724,'' after ''44716,'', was repealed by Pub. L. 105–102.

Subsec. (a)(3). Pub. L. 104–287, §5(77)(C), realigned margins of subpars. (A) and (B).

Subsec. (a)(5). Pub. L. 104–264, §804(b), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''In the case of a violation of section 47107(b) of this title, the maximum civil penalty for a continuing violation shall not exceed $50,000.''

Subsec. (c)(1)(A). Pub. L. 104–287, §5(77)(D)(ii), (iii), struck out ''or'' before ''subchapter II'' and inserted '', or section 44909'' before ''of this title''.

Pub. L. 104–287, §5(77)(D)(i), substituted ''chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714),'' for ''any of sections 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, or 41731–41742,''.

Subsec. (d)(2). Pub. L. 104–287, §5(77)(E), substituted ''section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), 44908, and 44909), or section'' for ''or any of sections 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44912–44915, 44932–44938,''.

Pub. L. 104–264, §1220(b), which directed amendment of par. (2) by inserting ''44718(d),'' after ''44716,'', was repealed by Pub. L. 105–102.

Pub. L. 104–264, §502(c)(1), which directed amendment of par. (2) by inserting ''44724,'' after ''44718(d),'', was repealed by Pub. L. 105–102.

Subsec. (f)(1)(A)(i). Pub. L. 104–287, §5(77)(F), substituted ''section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), or chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), 44908, and 44909)'' for ''or any of sections 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44912–44915, or 44932–44938''.

Pub. L. 104–264, §1220(b), which directed amendment of cl. (i) by inserting ''44718(d),'' after ''44716,'', was repealed by Pub. L. 105–102.

Pub. L. 104–264, §502(c)(1), which directed amendment of cl. (i) by inserting ''44724,'' after ''44718(d),'', was repealed by Pub. L. 105–102.

1994—Subsec. (a)(1)(A). Pub. L. 103–429, §6(60)(A), substituted ''any of sections 41301–41306'' for ''section 41301–41306'' and ''any of sections 44701(a)'' for ''section 44701(a)''.

Pub. L. 103–305, §207(c)(1), inserted '', or 41715'' before ''of this title''.

Pub. L. 103–305, §112(c)(1)(A), substituted ''46303, 47107(b) (including any assurance made under such section)'' for ''or 46303''.

Subsec. (a)(2)(A). Pub. L. 103–429, §6(60)(B), substituted ''any of sections 44701(a)'' for ''section 44701(a)''.

Subsec. (a)(4). Pub. L. 103–305, §207(c)(2), inserted ''(other than a violation of section 41715)'' after ''the violation'' in two places.

Subsec. (a)(5). Pub. L. 103–305, §112(c)(1)(B), added par. (5).

Subsec. (a)(6). Pub. L. 103–305, §207(c)(3), added par. (6).

Subsec. (c)(1)(A). Pub. L. 103–429, §6(60)(C), substituted ''any of sections 41301–41306'' for ''section 41301–41306''.

Subsec. (d)(2). Pub. L. 103–429, §6(60)(B), substituted ''any of sections 44701(a)'' for ''section 44701(a)''.

Pub. L. 103–305, §112(c)(2), substituted ''46303, or 47107(b) (as further defined by the Secretary under sec-

tion 47107(*l*) and including any assurance made under section 47107(b))'' for ''or 46303''.

Subsec. (d)(7)(D). Pub. L. 103–305, § 112(c)(3), added subpar. (D).

Subsec. (f)(1)(A)(i). Pub. L. 103–429, § 6(60)(B), substituted ''any of sections 44701(a)'' for ''section 44701(a)''.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, § 3(c), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(c)(4) is effective Oct. 9, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

Amendment by section 502(c) of Pub. L. 104–264 applicable to any air carrier hiring an individual as a pilot whose application was first received by the carrier on or after the 120th day following Oct. 9, 1996, see section 502(d) of Pub. L. 104–264, set out as a note under section 30305 of this title.

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENTS

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

Amendment by section 207(c) of Pub. L. 103–305 effective Feb. 1, 1995, see section 207(d) of Pub. L. 103–305, set out as an Effective Date note under section 41715 of this title.

SAVINGS PROVISION

Pub. L. 102–345, § 2(c), Aug. 26, 1992, 106 Stat. 925, provided that: ''Notwithstanding subsections (a) and (b) of this section, sections 901(a)(3) and 905 of the Federal Aviation Act of 1958 [Pub. L. 85–726] as in effect on July 31, 1992, shall continue in effect on and after such date of enactment with respect to violations of the Federal Aviation Act of 1958 occurring before such date of enactment.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 1133, 1153, 40109, 41110, 46304 of this title.

§ 46302. False information

(a) CIVIL PENALTY.—A person that, knowing the information to be false, gives, or causes to be given, under circumstances in which the information reasonably may be believed, false information about an alleged attempt being made or to be made to do an act that would violate section 46502(a), 46504, 46505, or 46506 of this title, is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

(b) COMPROMISE AND SETOFF.—(1) The Secretary of Transportation may compromise the amount of a civil penalty imposed under subsection (a) of this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1234.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46302(a)	49 App.:1471(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 901(c); added Oct. 12, 1984, Pub. L. 98–473, § 2014(a)(1), 98 Stat. 2189.
46302(b)	49 App.:1471(a)(2) (related to 1471(c)).	Aug. 23, 1958, Pub. L. 85–726, § 901(a)(2) (related to § 901(c)), 72 Stat. 784; July 10, 1962, Pub. L. 87–528, § 12, 76 Stat. 150; restated Oct. 24, 1978, Pub. L. 95–504, § 35(b), 92 Stat. 1740; Oct. 12, 1984, Pub. L. 98–473, § 2014(b), 98 Stat. 2189.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In subsection (a), the words ''gives, or causes to be given'' are substituted for ''imparts or conveys or causes to be imparted or conveyed'' to eliminate unnecessary words. The words ''attempt or'', ''a crime'', and ''which shall be recoverable in a civil action brought in the name of the United States'' are omitted as surplus.

In subsection (b)(1), the words ''imposed under'' are substituted for ''provided for in'' for consistency.

In subsection (b)(2), the words ''imposed or compromised'' are substituted for ''The amount of such penalty when finally determined or fixed by order of the Board, or the amount agreed upon in compromise'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 46301 of this title.

§ 46303. Carrying a weapon

(a) CIVIL PENALTY.—An individual who, when on, or attempting to board, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the individual or the property of the individual a concealed dangerous weapon that is or would be accessible to the individual in flight is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

(b) COMPROMISE AND SETOFF.—(1) The Secretary of Transportation may compromise the amount of a civil penalty imposed under subsection (a) of this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the individual liable for the penalty.

(c) NONAPPLICATION.—This section does not apply to—

(1) a law enforcement officer of a State or political subdivision of a State, or an officer or employee of the Government, authorized to carry arms in an official capacity; or

(2) another individual the Administrator of the Federal Aviation Administration by regulation authorizes to carry arms in an official capacity.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1234.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46303(a)	49 App.:1471(d) (words after 3d comma).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §901(d); added Oct. 12, 1984, Pub. L. 98–473, §2014(a)(1), 98 Stat. 2189.
46303(b)	49 App.:1471(a)(2) (related to 1471(d)).	Aug. 23, 1958, Pub. L. 85–726, §901(a)(2) (related to §901(d)), 72 Stat. 784; July 10, 1962, Pub. L. 87–528, §12, 76 Stat. 150; restated Oct. 24, 1978, Pub. L. 95–504, §35(b), 92 Stat. 1740; Oct. 12, 1984, Pub. L. 98–473, §2014(b), 98 Stat. 2189.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
46303(c)	49 App.:1471(d) (words before 3d comma).	

In subsection (a), the words ''deadly or'' and ''which shall be recoverable in a civil action brought in the name of the United States'' are omitted as surplus.

In subsection (b)(1), the words ''imposed under'' are substituted for ''provided for in'' for consistency.

In subsection (b)(2), the words ''imposed or compromised'' are substituted for ''The amount of such penalty when finally determined or fixed by order of the Board, or the amount agreed upon in compromise'' to eliminate unnecessary words.

In subsection (c)(1), the words ''State or political subdivision of a State'' are substituted for ''municipal or State government'' for consistency in the revised title and with other titles of the United States Code. The words ''or required'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 46301 of this title.

§ 46304. Liens on aircraft

(a) AIRCRAFT SUBJECT TO LIENS.—When an aircraft is involved in a violation referred to in section 46301(a)(1)(A)–(C), (2), or (3) of this title and the violation is by the owner of, or individual commanding, the aircraft, the aircraft is subject to a lien for the civil penalty.

(b) SEIZURE.—An aircraft subject to a lien under this section may be seized summarily and placed in the custody of a person authorized to take custody of it under regulations of the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator). A report on the seizure shall be submitted to the Attorney General. The Attorney General promptly shall bring a civil action in rem to enforce the lien or notify the Secretary or Administrator that the action will not be brought.

(c) RELEASE.—An aircraft seized under subsection (b) of this section shall be released from custody when—

(1) the civil penalty is paid;

(2) a compromise amount agreed on is paid;

(3) the aircraft is seized under a civil action in rem to enforce the lien;

(4) the Attorney General gives notice that a civil action will not be brought under subsection (b) of this section; or

(5) a bond (in an amount and with a surety the Secretary or Administrator prescribes), conditioned on payment of the penalty or compromise, is deposited with the Secretary or Administrator.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1235.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46304(a)	49 App.:1471(b).	Aug. 23, 1958, Pub. L. 85–726, §§901(b), 903(b)(2), (3), 72 Stat. 784, 786.
46304(b)	49 App.:1473(b)(2).	
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46304(c)	49 App.:1473(b)(3). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	

In this section, the word ''civil'' is added before ''penalty'' for consistency in the revised title and with other titles of the United States Code.

In subsections (b) and (c), the word ''Administrator'' in section 902(b)(2) and (3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 786) is retained on authority of 49:106(g). The words ''Attorney General'' are substituted for ''United States attorney for the judicial district in which the seizure is made'' and ''United States attorney'' because of 28:503 and 509.

In subsection (b), the words ''report on the seizure'' are substituted for ''report of the cause'' for clarity. The words ''bring a civil action in rem'' are substituted for ''institute proceedings'' for clarity and consistency in the revised title and with other titles of the Code and the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''that the action will not be brought'' are substituted for ''of his failure to so act'' for clarity.

In subsection (c)(3), the words ''under a civil action in rem'' are substituted for ''in pursuance of process of any court in proceedings in rem'' to eliminate unnecessary words and for consistency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 46305. Actions to recover civil penalties

A civil penalty under this chapter may be collected by bringing a civil action against the person subject to the penalty, a civil action in rem against an aircraft subject to a lien for a penalty, or both. The action shall conform as nearly as practicable to a civil action in admiralty, regardless of the place an aircraft in a civil action in rem is seized. However, a party may demand a jury trial of an issue of fact in an action involving a civil penalty under this chapter (except a penalty imposed by the Secretary of Transportation that formerly was imposed by the Civil Aeronautics Board) if the value of the matter in controversy is more than $20. Issues of fact tried by a jury may be reexamined only under common law rules.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1235.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46305	49 App.:1473(b)(1).	Aug. 23, 1958, Pub. L. 85–726, §903(b)(1), 72 Stat. 786; Oct. 24, 1978, Pub. L. 95–504, §36, 92 Stat. 1741.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1473(b)(4).	Aug. 23, 1958, Pub. L. 85–726, § 903(b)(4), 72 Stat. 787.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

The text of 49 App.:1473(b)(4) is omitted because of 28:ch. 131. The words ''imposed or assessed'' are omitted as surplus. The words ''bringing a civil action'' are substituted for ''proceedings in personam'', the words ''civil action in rem'' are substituted for ''proceedings in rem'', and the words ''civil action'' are substituted for ''civil suits'', for consistency in the revised title and with other titles of the United States Code and the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''regardless of the place an aircraft in a civil action in rem is seized'' are substituted for 49 App.:1473(b)(1) (last sentence) to eliminate unnecessary words. The word ''civil'' is added after ''involving a'' for clarity. The words ''(except a penalty imposed by the Secretary of Transportation that formerly was imposed by the Civil Aeronautics Board)'' are substituted for ''other than those assessed by the Board'' because the Civil Aeronautics Board went out of existence and its duties and powers were transferred to the Secretary of Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 46306. Registration violations involving aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) GENERAL CRIMINAL PENALTY.—Except as provided by subsection (c) of this section, a person shall be fined under title 18, imprisoned for not more than 3 years, or both, if the person—

(1) knowingly and willfully forges or alters a certificate authorized to be issued under this part;

(2) knowingly sells, uses, attempts to use, or possesses with the intent to use, such a certificate;

(3) knowingly and willfully displays or causes to be displayed on an aircraft a mark that is false or misleading about the nationality or registration of the aircraft;

(4) obtains a certificate authorized to be issued under this part by knowingly and willfully falsifying or concealing a material fact, making a false, fictitious, or fraudulent statement, or making or using a false document knowing it contains a false, fictitious, or fraudulent statement or entry;

(5) owns an aircraft eligible for registration under section 44102 of this title and knowingly and willfully operates, attempts to operate, or allows another person to operate the aircraft when—

(A) the aircraft is not registered under section 44103 of this title or the certificate of registration is suspended or revoked; or

(B) the owner knows or has reason to know that the other person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

(6) knowingly and willfully operates or attempts to operate an aircraft eligible for registration under section 44102 of this title knowing that—

(A) the aircraft is not registered under section 44103 of this title;

(B) the certificate of registration is suspended or revoked; or

(C) the person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

(7) knowingly and willfully serves or attempts to serve in any capacity as an airman without an airman's certificate authorizing the individual to serve in that capacity;

(8) knowingly and willfully employs for service or uses in any capacity as an airman an individual who does not have an airman's certificate authorizing the individual to serve in that capacity; or

(9) operates an aircraft with a fuel tank or fuel system that has been installed or modified knowing that the tank, system, installation, or modification does not comply with regulations and requirements of the Administrator of the Federal Aviation Administration.

(c) CONTROLLED SUBSTANCE CRIMINAL PENALTY.—(1) In this subsection, ''controlled substance'' has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(2) A person violating subsection (b) of this section shall be fined under title 18, imprisoned for not more than 5 years, or both, if the violation is related to transporting a controlled substance by aircraft or aiding or facilitating a controlled substance violation and the transporting, aiding, or facilitating—

(A) is punishable by death or imprisonment of more than one year under a law of the United States or a State; or

(B) that is provided is related to an act punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance).

(3) A term of imprisonment imposed under paragraph (2) of this subsection shall be served in addition to, and not concurrently with, any other term of imprisonment imposed on the individual.

(d) SEIZURE AND FORFEITURE.—(1) The Administrator of Drug Enforcement or the Commissioner of Customs may seize and forfeit under the customs laws an aircraft whose use is related to a violation of subsection (b) of this section, or to aid or facilitate a violation, regardless of whether a person is charged with the violation.

(2) An aircraft's use is presumed to have been related to a violation of, or to aid or facilitate a violation of—

(A) subsection (b)(1) of this section if the aircraft certificate of registration has been forged or altered;

(B) subsection (b)(3) of this section if there is an external display of false or misleading registration numbers or country of registration;

(C) subsection (b)(4) of this section if—

(i) the aircraft is registered to a false or fictitious person; or

(ii) the application form used to obtain the aircraft certificate of registration contains a material false statement;

(D) subsection (b)(5) of this section if the aircraft was operated when it was not registered under section 44103 of this title; or

(E) subsection (b)(9) of this section if the aircraft has a fuel tank or fuel system that was installed or altered—

(i) in violation of a regulation or requirement of the Administrator of the Federal Aviation Administration; or

(ii) if a certificate required to be issued for the installation or alteration is not carried on the aircraft.

(3) The Administrator of the Federal Aviation Administration, the Administrator of Drug Enforcement, and the Commissioner shall agree to a memorandum of understanding to establish procedures to carry out this subsection.

(e) RELATIONSHIP TO STATE LAWS.—This part does not prevent a State from establishing a criminal penalty, including providing for forfeiture and seizure of aircraft, for a person that—

(1) knowingly and willfully forges or alters an aircraft certificate of registration;

(2) knowingly sells, uses, attempts to use, or possesses with the intent to use, a fraudulent aircraft certificate of registration;

(3) knowingly and willfully displays or causes to be displayed on an aircraft a mark that is false or misleading about the nationality or registration of the aircraft; or

(4) obtains an aircraft certificate of registration from the Administrator of the Federal Aviation Administration by—

(A) knowingly and willfully falsifying or concealing a material fact;

(B) making a false, fictitious, or fraudulent statement; or

(C) making or using a false document knowing it contains a false, fictitious, or fraudulent statement or entry.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1235; Pub. L. 104–287, §5(78), Oct. 11, 1996, 110 Stat. 3397.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46306(a)	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, §7214, 102 Stat. 4434.
46306(b)	49 App.:1472(b)(1), (2) (1st sentence cl. (A)).	Aug. 23, 1958, Pub. L. 85–726, §902(b)(1)–(4), 72 Stat. 784; Oct. 19, 1984, Pub. L. 98–499, §6, 98 Stat. 2316; restated Nov. 18, 1988, Pub. L. 100–690, §7209(a), 102 Stat. 4429.
46306(c)(1) ..	49 App.:1472(b)(4).	
46306(c)(2) ..	49 App.:1472(b)(2) (1st sentence cl. (B)).	
46306(c)(3) ..	49 App.:1472(b)(2) (last sentence).	
46306(d)	49 App.:1472(b)(3).	
46306(e)	49 App.:1472(b)(5).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(b)(5); added Oct. 27, 1986, Pub. L. 99–570, §3401(a)(1), 100 Stat. 3207–99; Nov. 18, 1988, Pub. L. 100–690, §7209(a), (b)(1), 102 Stat. 4429, 4432.

In subsections (b)(9), (d), and (e), the word ''Administrator'' in section 902(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 784) is retained on authority of 49:106(g).

In subsection (b), before clause (1), the words ''Except as provided by subsection (c) of this section'' are added for clarity. The words ''It shall be unlawful for any person'' and ''upon conviction'' are omitted as surplus. The words ''fined under title 18'' are substituted for ''a fine of not more than $15,000'' for consistency with title 18. In clause (1), the words ''counterfeit'' and ''falsely make'' are omitted as surplus. In clause (4), the words ''covering up'', ''representation'', and ''writing'' are omitted as surplus. In clause (7), the word ''valid'' is omitted as surplus.

In subsection (c)(2), before clause (A), the words ''fined under title 18'' are substituted for ''a fine of not more than $25,000'' for consistency with title 18.

In subsection (d)(1) and (3), the words ''Administrator of Drug Enforcement'' are substituted for ''Drug Enforcement Administration of the Department of Justice'' and ''Drug Enforcement Administration'' because of section 5(a) of Reorganization Plan No. 2 of 1973 (eff. July 1, 1973, 87 Stat. 1092). The words ''Commissioner of Customs'' and ''Commissioner'' are substituted for ''United States Customs Service'' because of 19:2071.

In subsection (d)(2)(A), the words ''aircraft certificate of registration'' are substituted for ''registration'' for consistency in this section. The words ''counterfeited'' and ''falsely made'' are omitted as surplus.

In subsections (d)(2)(C)(ii) and (e), the words ''aircraft certificate of registration'' are substituted for ''aircraft registration certificate'' for consistency with 49 App.:1401, restated in chapter 441 of the revised title.

In subsection (e), before clause (1), the words ''this subsection or in any other provision of'' are omitted as surplus. In clause (1), the words ''counterfeits'' and ''falsely makes'' are omitted as surplus. In clause (4)(A), the words ''covering up'' are omitted as surplus. In clause (4)(B), the words ''or representation'' are omitted as surplus. In clause (4)(C), the words ''writing or'' are omitted as surplus.

PUB. L. 104–287

This makes a clarifying amendment to 49:46306(c)(2)(B).

AMENDMENTS

1996—Subsec. (c)(2)(B). Pub. L. 104–287 inserted ''that is'' before ''provided''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44936 of this title.

§ 46307. Violation of national defense airspace

A person that knowingly or willfully violates section 40103(b)(3) of this title or a regulation prescribed or order issued under section 40103(b)(3) shall be fined under title 18, imprisoned for not more than one year, or both.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1237.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46307	49 App.:1523.	Aug. 23, 1958, Pub. L. 85–726, §1203, 72 Stat. 800.

The words ''In addition to the penalties otherwise provided for by this chapter'' are omitted as surplus.

The word ''prescribed'' is added for consistency in the revised title. The words ''fined under title 18'' are substituted for ''a fine of not exceeding $10,000'', and the words ''shall be deemed guilty of a misdemeanor'' are omitted, for consistency with title 18. The words ''and upon conviction thereof'' and ''such fine and imprisonment'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 46308. Interference with air navigation

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person—

(1) with intent to interfere with air navigation in the United States, exhibits in the United States a light or signal at a place or in a way likely to be mistaken for a true light or signal established under this part or for a true light or signal used at an air navigation facility;

(2) after a warning from the Administrator of the Federal Aviation Administration, continues to maintain a misleading light or signal; or

(3) knowingly interferes with the operation of a true light or signal.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1238.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46308	49 App.:1472(c).	Aug. 23, 1958, Pub. L. 85–726, §902(c), 72 Stat. 784.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

In this section, before clause (1), the words ''fined under title 18'' are substituted for ''a fine of not exceeding $5,000'' for consistency with title 18. The words ''such fine and imprisonment'' are omitted as surplus. In clause (1), the words ''used at'' are substituted for ''in connection with'' for clarity. The words ''airport or other'' are omitted as being included in the definition of ''air navigation facility'' in section 40102(a) of the revised title. In clause (2), the word ''due'' is omitted as surplus. The word ''Administrator'' in section 902(c) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 784) is retained on authority of 49:106(g). In clause (3), the words ''removes, extinguishes, or'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44936 of this title.

§ 46309. Concession and price violations

(a) CRIMINAL PENALTY FOR OFFERING, GRANTING, GIVING, OR HELPING TO OBTAIN CONCESSIONS AND LOWER PRICES.—An air carrier, foreign air carrier, ticket agent, or officer, agent, or employee of an air carrier, foreign air carrier, or ticket agent shall be fined under title 18 if the air carrier, foreign air carrier, ticket agent, officer, agent, or employee—

(1) knowingly and willfully offers, grants, or gives, or causes to be offered, granted, or given, a rebate or other concession in violation of this part; or

(2) by any means knowingly and willfully assists, or willingly allows, a person to obtain transportation or services subject to this part at less than the price lawfully in effect.

(b) CRIMINAL PENALTY FOR RECEIVING REBATES, PRIVILEGES, AND FACILITIES.—A person shall be fined under title 18 if the person by any means—

(1) knowingly and willfully solicits, accepts, or receives a rebate of a part of a price lawfully in effect for the foreign air transportation of property, or a service related to the foreign air transportation; or

(2) knowingly solicits, accepts, or receives a privilege or facility related to a matter the Secretary of Transportation requires be specified in a currently effective tariff applicable to the foreign air transportation of property.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1238.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46309(a)	49 App.:1472(d)(1).	Aug. 23, 1958, Pub. L. 85–726, §902(d)(1), 72 Stat. 785; Jan. 3, 1975, Pub L. 93–623, §8(b), 88 Stat. 2105.
46309(b)	49 App.:1472(d)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(d)(2); added Jan. 3, 1975, Pub. L. 93–623, §8(b), 88 Stat. 2106.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In this section, the words ''fined under title 18'' are substituted for ''a fine of not less than $100 and not more than $5,000'' and ''fined not less than $100, nor more than $5,000'' for consistency with title 18. The words ''for each offense'' are omitted as surplus. The words ''fares, or charges'' are omitted as surplus because of the definition of ''rate'' in section 40102(a) of the revised title.

In subsection (a), before clause (1), the word ''representative'' is omitted as surplus. The words ''shall be deemed guilty of a misdemeanor'' are omitted as superseded by 18:3559. The words ''and, upon conviction thereof'' are omitted as surplus. In clause (2), the words ''device or'' and ''suffer or'' are omitted as surplus.

In subsection (b), before clause (1), the words ''by any means'' are substituted for ''in any manner or by any device'' for consistency in this section and to eliminate unnecessary words. In clauses (1) and (2), the word ''foreign'' is added for clarity because only foreign air transportation has regulated prices. In clause (1), the word ''rebate'' is substituted for ''refund or remittance'' for consistency in this section. In clause (2), the word ''favor'' is omitted as being included in ''privilege''.

§ 46310. Reporting and recordkeeping violations

(a) GENERAL CRIMINAL PENALTY.—An air carrier or an officer, agent, or employee of an air carrier shall be fined under title 18 for intentionally—

(1) failing to make a report or keep a record under this part;

(2) falsifying, mutilating, or altering a report or record under this part; or

(3) filing a false report or record under this part.

(b) SAFETY REGULATION CRIMINAL PENALTY.—An air carrier or an officer, agent, or employee of an air carrier shall be fined under title 18, imprisoned for not more than 5 years, or both, for intentionally falsifying or concealing a material fact, or inducing reliance on a false statement of

material fact, in a report or record under section 44701(a) or (b) or any of sections 44702–44716 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1238; Pub. L. 103–429, §6(56), Oct. 31, 1994, 108 Stat. 4385.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46310	49 App.:1472(e).	Aug. 23, 1958, Pub. L. 85–726, §902(e), 72 Stat. 785; restated Sept. 30, 1987, Pub. L. 100–121, 101 Stat. 792.

In this section, the word ''representative'' is omitted as surplus. The words ''account'' and ''memorandum'' are omitted as being included in ''record''.

In subsection (a), before clause (1), the words ''fined under title 18'' are substituted for ''fined not more than $5,000 in the case of an individual and not more than $10,000 in the case of a person other than an individual'' for consistency in this section and with title 18.

In subsection (b), the words ''or representation'' are omitted a surplus.

PUB. L. 103–429

This amends 49:44711(a)(2)(B), (5), and (7) and 46310(b) to correct erroneous cross-references.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–429 inserted ''any of sections'' before ''44702–44716''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 46311. Unlawful disclosure of information

(a) CRIMINAL PENALTY.—The Secretary of Transportation, the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator, or an officer or employee of the Secretary or Administrator shall be fined under title 18, imprisoned for not more than 2 years, or both, if the Secretary, Administrator, officer, or employee knowingly and willfully discloses information that—

(1) the Secretary, Administrator, officer, or employee acquires when inspecting the records of an air carrier; or

(2) is withheld from public disclosure under section 40115 of this title.

(b) NONAPPLICATION.—Subsection (a) of this section does not apply if—

(1) the officer or employee is directed by the Secretary or Administrator to disclose information that the Secretary or Administrator had ordered withheld; or

(2) the Secretary, Administrator, officer, or employee is directed by a court of competent jurisdiction to disclose the information.

(c) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize the Secretary or Administrator to withhold information from a committee of Congress authorized to have the information.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1239.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46311(a), (b)	49 App.:1472(f) (words before proviso).	Aug. 23, 1958, Pub. L. 85–726, §902(f), 72 Stat. 785.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46311(c)	49 App.:1472(f) (proviso). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	

In this section, the word ''Administrator'' in section 902(f) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 785) is retained on authority of 49:106(g).

In subsection (a), before clause (1), the words ''fined under title 18'' are substituted for ''a fine of not more than $5,000'' for consistency with title 18. The words ''upon conviction thereof be subject for each offense'' are omitted as surplus. The words ''any fact or'' are omitted as being included in ''information''. In clause (1), the words ''the Secretary, Administrator, officer, or employee acquires'' are substituted for ''may come to his knowledge'' for clarity and consistency.

In subsection (b)(2), the words ''or a judge thereof'' are omitted as surplus.

In subsection (c), the word ''duly'' is omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 46312. Transporting hazardous material

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person, in violation of a regulation or requirement related to the transportation of hazardous material prescribed by the Secretary of Transportation under this part—

(1) willfully delivers, or causes to be delivered, property containing hazardous material to an air carrier or to an operator of a civil aircraft for transportation in air commerce; or

(2) recklessly causes the transportation in air commerce of the property.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1239.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46312	49 App.:1472(h)(2).	Aug. 23, 1958, Pub. L. 85–726, §902(h)(2), 72 Stat. 785; restated Jan. 3, 1975, Pub. L. 93–633, §113(c), 88 Stat. 2162.

In this section, before clause (1), the words ''is guilty of an offense'', ''Upon conviction'', and ''for each offense'' are omitted as surplus. The words ''fined under title 18'' are substituted for ''a fine of not more than $25,000'' for consistency with title 18. The word ''prescribed'' is substituted for ''issued'' for consistency in the revised title and with other titles of the United States Code. In clause (1), the words ''shipment, baggage, or other'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 44936 of this title; title 18 section 3663.

§ 46313. Refusing to appear or produce records

A person not obeying a subpena or requirement of the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) to appear and testify or produce records shall be fined under title 18, imprisoned for not more than one year, or both.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1239.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46313	49 App.:1472(g).	Aug. 23, 1958, Pub. L. 85–726, § 902(g), 72 Stat. 785.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

The word ''Administrator'' in section 902(g) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 785) is retained on authority of 49:106(g). The words ''not obeying'' are substituted for ''who shall neglect or refuse . . . or to answer any lawful inquiry . . . in obedience to'' to eliminate surplus words. The word ''lawful'' is omitted as surplus. The word ''appear'' is substituted for ''attend'' for clarity. The word ''records'' is substituted for ''books, papers, or documents'' for consistency in the revised title and with other titles of the United States Code. The words ''if in his power to do so'' are omitted as surplus. The words ''shall be guilty of a misdemeanor'' are omitted for consistency with title 18. The words ''and, upon conviction thereof'' are omitted as surplus. The words ''fined under title 18'' are substituted for ''a fine of not less than $100 nor more than $5,000'' for consistency with title 18.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 46314. Entering aircraft or airport area in violation of security requirements

(a) PROHIBITION.—A person may not knowingly and willfully enter, in violation of security requirements prescribed under section 44901, 44903(b) or (c), or 44906 of this title, an aircraft or an airport area that serves an air carrier or foreign air carrier.

(b) CRIMINAL PENALTY.—(1) A person violating subsection (a) of this section shall be fined under title 18, imprisoned for not more than one year, or both.

(2) A person violating subsection (a) of this section with intent to commit, in the aircraft or airport area, a felony under a law of the United States or a State shall be fined under title 18, imprisoned for not more than 10 years, or both.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1239.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46314	49 App.:1472(r).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(r); added Dec. 30, 1987, Pub. L. 100–223, § 204(f)(2), 101 Stat. 1520.

In subsection (b), the words ''fined under title 18'' are substituted for ''a fine not to exceed $1,000'' and ''a fine not to exceed $10,000'' for consistency with title 18.

In subsection (b)(1), the words ''Upon conviction'' are omitted as surplus.

In subsection (b)(2), the words ''airport area'' are substituted for ''secured area'' for consistency in this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44936 of this title; title 18 section 2333; title 28 section 538.

§ 46315. Lighting violations involving transporting controlled substances by aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) CRIMINAL PENALTY.—A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if—

(1) the person knowingly and willfully operates an aircraft in violation of a regulation or requirement of the Administrator of the Federal Aviation Administration related to the display of navigation or anticollision lights;

(2) the person is knowingly transporting a controlled substance by aircraft or aiding or facilitating a controlled substance offense; and

(3) the transporting, aiding, or facilitating—

(A) is punishable by death or imprisonment for more than one year under a law of the United States or a State; or

(B) is provided in connection with an act punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1240.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46315(a)	49 App.:1303 (note).	Nov. 18, 1988, Pub. L. 100–690, § 7214, 102 Stat. 4434.
46315(b)	49 App.:1472(q).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(q); added Oct. 19, 1984, Pub. L. 98–499, § 5(a), 98 Stat. 2315; restated Oct. 27, 1986, Pub. L. 99–570, § 3401(b)(1), 100 Stat. 3207–100; Nov. 18, 1988, Pub. L. 100–690, § 7209(c)(1), (2)(A), 102 Stat. 4432.

In subsection (b), before clause (1), the words ''fined under title 18'' are substituted for ''a fine not exceeding $25,000'' for consistency with title 18. In clause (2), the word ''knowingly'' is substituted for ''and with knowledge of such act'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 44936 of this title.

§ 46316. General criminal penalty when specific penalty not provided

(a) CRIMINAL PENALTY.—Except as provided by subsection (b) of this section, when another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates this part, a regulation prescribed or order issued by the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) under this part, or any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title shall be fined under title 18. A separate violation occurs for each day the violation continues.

(b) NONAPPLICATION.—Subsection (a) of this section does not apply to chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 441 (except section 44109), chapter 445, chapter 447 (except section 44718(a)), and chapter 449 (except sections 44902, 44903(d), 44904, and 44907–44909) of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1240; Pub. L. 104–287, § 5(79), Oct. 11, 1996, 110 Stat. 3397; Pub. L. 105–102, § 3(d)(1)(D), Nov. 20, 1997, 111 Stat. 2215.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46316	49 App.:1472(a).	Aug. 23, 1958, Pub. L. 85–726, § 902(a), 72 Stat. 784; restated July 10, 1962, Pub. L. 87–528, § 13, 76 Stat. 150.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.

In subsection (a), the word ''prescribed'' is added for consistency in the revised title. The words ''condition, or limitation of'' are omitted as surplus. The word ''Administrator'' in section 902(a) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 784) is retained on authority of 49:106(g). The words ''or in section 1474 of this Appendix'' are omitted as surplus because 49 App.:1474 is not included in the revised title. The words ''shall be deemed guilty of a misdemeanor'' are omitted for consistency with title 18. The words ''and upon conviction thereof'' are omitted as surplus. The words ''shall be fined under title 18'' are substituted for ''shall be subject for the first offense to a fine of not more than $500, and for any subsequent offense to a fine of not more than $2,000'' for consistency with title 18.

In subsection (b), reference to 49 App.:ch. 20, subch. VII is omitted as unnecessary because subchapter VII is not restated in this part.

PUB. L. 104–287

This amends 49:46316(b) to make it easier to include future sections in the cross-reference by restating it in terms of chapters.

AMENDMENTS

1997—Subsec. (b). Pub. L. 105–102 amended directory language of Pub. L. 104–287. See 1996 Amendment note below.

1996—Subsec. (b). Pub. L. 104–287, as amended by Pub. L. 105–102, substituted ''chapter 447 (except section 44718(a)), and chapter 449 (except sections 44902, 44903(d), 44904, and 44907–44909)'' for ''and sections 44701(a) and (b), 44702–44716, 44901, 44903(b) and (c), 44905, 44906, 44912–44915, and 44932–44938''.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, § 3(d), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(d)(1)(D) is effective Oct. 11, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

CHAPTER 465—SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES

Sec.

46501. Definitions.
46502. Aircraft piracy.
46503. Repealed.
46504. Interference with flight crew members and attendants.
46505. Carrying a weapon or explosive on an aircraft.
46506. Application of certain criminal laws to acts on aircraft.
46507. False information and threats.

AMENDMENTS

1994—Pub. L. 103–322, title VI, § 60003(b)(1), Sept. 13, 1994, 108 Stat. 1970, substituted ''Repealed'' for ''Death penalty sentencing procedure for aircraft piracy'' in item 46503.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 106, 44936 of this title; title 28 section 538.

§ 46501. Definitions

In this chapter—

(1) ''aircraft in flight'' means an aircraft from the moment all external doors are closed following boarding—

(A) through the moment when one external door is opened to allow passengers to leave the aircraft; or

(B) until, if a forced landing, competent authorities take over responsibility for the aircraft and individuals and property on the aircraft.

(2) ''special aircraft jurisdiction of the United States'' includes any of the following aircraft in flight:

(A) a civil aircraft of the United States.

(B) an aircraft of the armed forces of the United States.

(C) another aircraft in the United States.

(D) another aircraft outside the United States—

(i) that has its next scheduled destination or last place of departure in the United States, if the aircraft next lands in the United States;

(ii) on which an individual commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) if the aircraft lands in the United

States with the individual still on the aircraft; or

(iii) against which an individual commits an offense (as defined in subsection (d) or (e) of article I, section I of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation) if the aircraft lands in the United States with the individual still on the aircraft.

(E) any other aircraft leased without crew to a lessee whose principal place of business is in the United States or, if the lessee does not have a principal place of business, whose permanent residence is in the United States.

(3) an individual commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) when the individual, when on an aircraft in flight—

(A) by any form of intimidation, unlawfully seizes, exercises control of, or attempts to seize or exercise control of, the aircraft; or

(B) is an accomplice of an individual referred to in subclause (A) of this clause.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1240.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46501(1)	49 App.:1301(38) (words after 10th comma).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §101(38); added Oct. 14, 1970, Pub. L. 91–449, §1(1), 84 Stat. 921; restated Aug. 5, 1974, Pub. L. 93–366, §§102, 206, 88 Stat. 409, 419; Nov. 9, 1977, Pub. L. 95–163, §17(b)(1), 91 Stat. 1286; Oct. 24, 1978, Pub. L. 95–504, §2(b), 92 Stat. 1705; Oct. 12, 1984, Pub. L. 98–473, §2013(c), 98 Stat. 2189.
	49 App.:1472(n)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(n)(2), (4); added Aug. 5, 1974, Pub. L. 93–366, §103(b), 88 Stat. 410, 411.
46501(2)	49 App.:1301(38) (words before 10th comma).	
46501(3)	49 App.:1472(n)(2).	

In clause (2), before subclause (A), the words ''any of the following'' are substituted for ''includes'' for clarity. In subclause (B), the words ''armed forces'' are substituted for ''national defense forces'' because of 10:101. In subclause (D)(i), the word ''place'' is substituted for ''point'' for consistency in the revised title. The word ''actually'' is omitted as surplus. In subclause (D)(ii), the words ''on which an individual commits'' are substituted for ''having . . . committed aboard'' for clarity. In subclause (D)(iii), the words ''against which an individual commits'' are substituted for ''regarding which an offense . . . is committed'' for clarity. The words ''(Montreal, September 23, 1971)'' are omitted as surplus. In subclause (E), the words ''the lessee does not have a principal place of business'' are substituted for ''none'' for clarity.

In clause (3), the words ''by force or threat thereof, or . . . other'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 sections 31, 112, 831, 878, 1116, 1201, 2318, 2340.

§ 46502. Aircraft piracy

(a) IN SPECIAL AIRCRAFT JURISDICTION.—(1) In this subsection—

(A) ''aircraft piracy'' means seizing or exercising control of an aircraft in the special aircraft jurisdiction of the United States by force, violence, threat of force or violence, or any form of intimidation, and with wrongful intent.

(B) an attempt to commit aircraft piracy is in the special aircraft jurisdiction of the United States although the aircraft is not in flight at the time of the attempt if the aircraft would have been in the special aircraft jurisdiction of the United States had the aircraft piracy been completed.

(2) An individual committing or attempting or conspiring to commit aircraft piracy—

(A) shall be imprisoned for at least 20 years; or

(B) notwithstanding section 3559(b) of title 18, if the death of another individual results from the commission or attempt, shall be put to death or imprisoned for life.

(b) OUTSIDE SPECIAL AIRCRAFT JURISDICTION.—(1) An individual committing or conspiring to commit an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) on an aircraft in flight outside the special aircraft jurisdiction of the United States—

(A) shall be imprisoned for at least 20 years; or

(B) notwithstanding section 3559(b) of title 18, if the death of another individual results from the commission or attempt, shall be put to death or imprisoned for life.

(2) There is jurisdiction over the offense in paragraph (1) if—

(A) a national of the United States was aboard the aircraft;

(B) an offender is a national of the United States; or

(C) an offender is afterwards found in the United States.

(3) For purposes of this subsection, the term ''national of the United States'' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1241; Pub. L. 103–429, §6(61), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–132, title VII, §§721(a), 723(b), Apr. 24, 1996, 110 Stat. 1298, 1300.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46502(a)(1) ..	49 App.:1472(i)(2), (3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(i); added Sept. 5, 1961, Pub. L. 87–197, §1, 75 Stat. 466; Oct. 14, 1970, Pub. L. 91–449, §1(3), 84 Stat. 921; Aug. 5, 1974, Pub. L. 93–366, §§103(a), 104, 88 Stat. 410, 411.
46502(a)(2) ..	49 App.:1472(i)(1).	
46502(b)(1) ..	49 App.:1472(n)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(n)(1), (3); added Aug. 5, 1974, Pub. L. 93–366, §103(b), 88 Stat. 410.
46502(b)(2) ..	49 App.:1472(n)(3).	

In subsection (a)(1)(B), the words ''offense of'' are omitted as surplus.

In subsection (a)(2), the words ''as herein defined'' are omitted as surplus.

In subsection (b)(2), the words ''the place of actual'' are omitted as surplus. The words ''as defined in paragraph (2) of this subsection'' are omitted because of the restatement. The word ''country'' is substituted for ''State'' for consistency in the revised title and with other titles of the United States Code.

PUB. L. 103–429

This amends 49:46502(a)(2)(B) and (b)(1)(B) to clarify the restatement of 49 App.:1472(i)(1)(B) and (n)(1)(B) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1241, 1242).

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–132, §723(b)(1), inserted ''or conspiring'' after ''attempting''.

Subsec. (b)(1). Pub. L. 104–132, §§721(a)(1), 723(b)(2), in introductory provisions, inserted ''or conspiring to commit'' after ''committing'' and struck out ''and later found in the United States'' after ''jurisdiction of the United States''.

Subsec. (b)(2). Pub. L. 104–132, §721(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''This subsection applies only if the place of takeoff or landing of the aircraft on which the individual commits the offense is located outside the territory of the country of registration of the aircraft.''

Subsec. (b)(3). Pub. L. 104–132, §721(a)(3), added par. (3).

1994—Subsecs. (a)(2)(B), (b)(1)(B). Pub. L. 103–429 inserted ''notwithstanding section 3559(b) of title 18,'' before ''if the death''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

AIRCRAFT PIRACY

The United States is a party to the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague, Dec. 16, 1970, entered into force as to the United States, Oct. 14, 1971, 22 UST 1641.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44903, 46302, 46507 of this title; title 18 sections 1956, 2332b, 2333, 2339A, 2516, 3286, 3559, 3592, 3663.

[§ 46503. Repealed. Pub. L. 103–322, title VI, § 60003(b)(2), Sept. 13, 1994, 108 Stat. 1970]

Section, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1242, provided for death penalty sentencing procedure for individuals convicted of aircraft piracy. See 18 U.S.C. 3591 et seq.

§ 46504. Interference with flight crew members and attendants

An individual on an aircraft in the special aircraft jurisdiction of the United States who, by assaulting or intimidating a flight crew member or flight attendant of the aircraft, interferes with the performance of the duties of the member or attendant or lessens the ability of the member or attendant to perform those duties, shall be fined under title 18, imprisoned for not more than 20 years, or both. However, if a dangerous weapon is used in assaulting or intimidating the member or attendant, the individual shall be imprisoned for any term of years or for life.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1244.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46504	49 App.:1472(j).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §902(j); added Sept. 5, 1961, Pub. L. 87–197, §1, 75 Stat. 466; Oct. 14, 1970, Pub. L. 91–449, §1(3), 84 Stat. 921.

The words ''or threatens'' are omitted as being included in ''intimidating''. The words ''(including any steward or stewardess)'' are omitted as being included in ''attendant''. The words ''fined under title 18'' are substituted for ''fined not more than $10,000'' for consistency with title 18. The words ''deadly or'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46302, 46507 of this title; title 18 sections 3286, 3663.

§ 46505. Carrying a weapon or explosive on an aircraft

(a) DEFINITION.—In this section, ''loaded firearm'' means a starter gun or a weapon designed or converted to expel a projectile through an explosive, that has a cartridge, a detonator, or powder in the chamber, magazine, cylinder, or clip.

(b) GENERAL CRIMINAL PENALTY.—An individual shall be fined under title 18, imprisoned for not more than 10 years, or both, if the individual—

(1) when on, or attempting to get on, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the individual or the property of the individual a concealed dangerous weapon that is or would be accessible to the individual in flight;

(2) has placed, attempted to place, or attempted to have placed a loaded firearm on that aircraft in property not accessible to passengers in flight; or

(3) has on or about the individual, or has placed, attempted to place, or attempted to have placed on that aircraft, an explosive or incendiary device.

(c) CRIMINAL PENALTY INVOLVING DISREGARD FOR HUMAN LIFE.—An individual who willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, violates subsection (b) of this section, shall be fined under title 18, imprisoned for not more than 15 years, or both.

(d) NONAPPLICATION.—Subsection (b)(1) of this section does not apply to—

(1) a law enforcement officer of a State or political subdivision of a State, or an officer or employee of the United States Government, authorized to carry arms in an official capacity;

(2) another individual the Administrator of the Federal Aviation Administration by regulation authorizes to carry a dangerous weapon in air transportation or intrastate air transportation; or

(3) an individual transporting a weapon (except a loaded firearm) in baggage not accessible to a passenger in flight if the air carrier was informed of the presence of the weapon.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1244; Pub. L. 104–132, title VII, § 705(b), Apr. 24, 1996, 110 Stat. 1295.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46505(a)	49 App.:1472(*l*)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(*l*)(4); added Feb. 18, 1980, Pub. L. 96–193, § 502(c), 94 Stat. 59.
46505(b)	49 App.:1472(*l*)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(*l*)(1); added Sept. 5, 1961, Pub. L. 87–197, § 1, 75 Stat. 466; Aug. 5, 1974, Pub. L. 93–366, § 203, 88 Stat. 417; restated Feb. 18, 1980, Pub. L. 96–193, § 502(a), 94 Stat. 59; Oct. 12, 1984, Pub. L. 98–473, § 2014(c)(1), 98 Stat. 2189.
46505(c)	49 App.:1472(*l*)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(*l*)(2); added Sept. 5, 1961, Pub. L. 87–197, § 1, 75 Stat. 466; restated Aug. 5, 1974, Pub. L. 93–366, § 203, 88 Stat. 418; Oct. 12, 1984, Pub. L 98–473, § 2014(c)(2), 98 Stat. 2189.
46505(d)	49 App.:1472(*l*)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(*l*)(3); added Sept. 5, 1961, Pub. L. 87–197, § 1, 75 Stat. 466; restated Aug. 5, 1974, Pub. L. 93–366, § 203, 88 Stat. 418; Feb. 18, 1980, Pub. L. 96–193, § 502(b), 94 Stat. 59.

In subsection (a), the definition of ''firearm'' is merged with the definition of ''loaded firearm'' because the term ''firearm'' is only used in the defined term ''loaded firearm''.

In subsections (b) and (c), the words ''fined under title 18'' are substituted for ''fined not more than $10,000'' and ''fined not more than $25,000'' for consistency with title 18.

In subsections (b)(1) and (d)(2), the words ''deadly or'' are omitted as surplus.

In subsection (b)(2), the words ''baggage or other'' are omitted as surplus.

In subsection (b)(3), the words ''bomb or similar'' are omitted as surplus.

In subsection (d)(1), the words ''State or political subdivision of a State'' are substituted for ''municipal or State government'' for consistency in the revised title and with other titles of the United States Code. The words ''or required'' are omitted as surplus.

In subsection (d)(3), the word ''contained'' is omitted as surplus.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–132, § 705(b)(1), substituted ''10 years'' for ''one year''.

Subsec. (c). Pub. L. 104–132, § 705(b)(2), substituted ''15 years'' for ''5 years''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46302, 46507 of this title; title 18 sections 2333, 3286.

§ 46506. Application of certain criminal laws to acts on aircraft

An individual on an aircraft in the special aircraft jurisdiction of the United States who commits an act that—

(1) if committed in the special maritime and territorial jurisdiction of the United States (as defined in section 7 of title 18) would violate section 113, 114, 661, 662, 1111, 1112, 1113, or 2111 or chapter 109A of title 18, shall be fined under title 18, imprisoned under that section or chapter, or both; or

(2) if committed in the District of Columbia would violate section 9 of the Act of July 29, 1892 (D.C. Code § 22-1112), shall be fined under title 18, imprisoned under section 9 of the Act, or both.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1245.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46506	49 App.:1472(k).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(k); added Sept. 5, 1961, Pub. L. 87–197, § 1, 75 Stat. 466; Oct. 14, 1970, Pub. L. 91–449, § 1(3), 84 Stat. 921; Nov. 10, 1986, Pub. L. 99–646, § 87(d)(8), 100 Stat. 3624; Nov. 14, 1986, Pub. L. 99–654, § 3(b)(8), 100 Stat. 3664.

In clause (1), the words ''fined under title 18, imprisoned under that section or chapter, or both'' are substituted for ''punished as provided therein'' for consistency with title 18.

In clause (2), the words ''fined under title 18, imprisoned under section 9 of the Act, or both'' are substituted for ''punished as provided therein'' for consistency with title 18.

REFERENCES IN TEXT

Section 9 of the Act of July 29, 1892, referred to in par. (2), is section 9 of act July 29, 1892, ch. 320, 27 Stat. 324, as amended, which appears in section 22–1112 of Title 22, Criminal Offenses, of the District of Columbia Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46302, 46507 of this title; title 18 sections 2333, 3286.

§ 46507. False information and threats

An individual shall be fined under title 18, imprisoned for not more than 5 years, or both, if the individual—

(1) knowing the information to be false, willfully and maliciously or with reckless disregard for the safety of human life, gives, or causes to be given, under circumstances in which the information reasonably may be believed, false information about an alleged attempt being made or to be made to do an act that would violate section 46502(a), 46504, 46505, or 46506 of this title; or

(2)(A) threatens to violate section 46502(a), 46504, 46505, or 46506 of this title, or causes a threat to violate any of those sections to be made; and

(B) has the apparent determination and will to carry out the threat.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1245.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
46507	49 App.:1472(m).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 902(m); added Sept. 5, 1961, Pub. L. 87–197, § 1, 75 Stat. 467; restated Oct. 12, 1984, Pub. L. 98–473, § 2014(d)(1), 98 Stat. 2190.

In this section, before clause (1), the words ''fined under title 18'' are substituted for ''fined not more than

$25,000'' for consistency with title 18. In clauses (1) and (2), the words ''a felony'' are omitted as surplus. In clause (1), the words ''gives, or causes to be given'' are substituted for ''imparts or conveys or causes to be imparted or conveyed'' to eliminate unnecessary words. The words ''attempt or'' are omitted as surplus. In clause (2), the words ''threatens . . . or causes a threat . . . to be made'' are substituted for ''imparts or conveys or causes to be imparted or conveyed any threat'' to eliminate unnecessary words.

PART B—AIRPORT DEVELOPMENT AND NOISE

CHAPTER 471—AIRPORT DEVELOPMENT

SUBCHAPTER I—AIRPORT IMPROVEMENT

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SUBCHAPTER II—SURPLUS PROPERTY FOR PUBLIC AIRPORTS

47151. Authority to transfer an interest in surplus property.
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AMENDMENTS

1996—Pub. L. 104–264, title I, §§142(c), 147(c)(2), 149(a)(2), title VIII, §804(c), Oct. 9, 1996, 110 Stat. 3221, 3223, 3226, 3271, substituted ''grant program'' for ''grant pilot program'' in item 47128 and added items 47132, 47133, and 47134.

1994—Pub. L. 103–305, title I, §§113(b), 118(b), Aug. 23, 1994, 108 Stat. 1579, 1580, added items 47129 and 47130 and redesignated former item 47129 as 47131.

SUBCHAPTER I—AIRPORT IMPROVEMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 40117, 41742, 47504, 47526, 49108, 49111, 50101, 50102, 50104, 50105 of this title.

§ 47101. Policies

(a) GENERAL.—It is the policy of the United States—

(1) that the safe operation of the airport and airway system is the highest aviation priority;

(2) that aviation facilities be constructed and operated to minimize current and projected noise impact on nearby communities;

(3) to give special emphasis to developing reliever airports;

(4) that appropriate provisions should be made to make the development and enhancement of cargo hub airports easier;

(5) to encourage the development of transportation systems that use various modes of transportation in a way that will serve the States and local communities efficiently and effectively;

(6) that airport development projects under this subchapter provide for the protection and enhancement of natural resources and the quality of the environment of the United States;

(7) that airport construction and improvement projects that increase the capacity of facilities to accommodate passenger and cargo traffic be undertaken to the maximum feasible extent so that safety and efficiency increase and delays decrease;

(8) to ensure that nonaviation usage of the navigable airspace be accommodated but not allowed to decrease the safety and capacity of the airspace and airport system;

(9) that artificial restrictions on airport capacity—

(A) are not in the public interest;

(B) should be imposed to alleviate air traffic delays only after other reasonably available and less burdensome alternatives have been tried; and

(C) should not discriminate unjustly between categories and classes of aircraft;

(10) that special emphasis should be placed on converting appropriate former military air bases to civil use and identifying and improving additional joint-use facilities;

(11) that the airport improvement program should be administered to encourage projects that employ innovative technology, concepts, and approaches that will promote safety, capacity, and efficiency improvements in the construction of airports and in the air transportation system (including the development and use of innovative concrete and other materials in the construction of airport facilities to minimize initial laydown costs, minimize time out of service, and maximize lifecycle durability) and to encourage and solicit innovative technology proposals and activities in the expenditure of funding pursuant to this subchapter;

(12) that airport fees, rates, and charges must be reasonable and may only be used for purposes not prohibited by this subchapter; and

(13) that airports should be as self-sustaining as possible under the circumstances existing at each particular airport and in establishing new fees, rates, and charges, and generating revenues from all sources, airport owners and operators should not seek to create revenue surpluses that exceed the amounts to be used for airport system purposes and for other purposes for which airport revenues may be spent under section 47107(b)(1) of this title, including reasonable reserves and other funds to facilitate financing and cover contingencies.

(b) NATIONAL TRANSPORTATION POLICY.—(1) It is a goal of the United States to develop a national intermodal transportation system that transports passengers and property in an efficient manner. The future economic direction of the United States depends on its ability to confront directly the enormous challenges of the global economy, declining productivity growth, energy vulnerability, air pollution, and the need to rebuild the infrastructure of the United States.

(2) United States leadership in the world economy, the expanding wealth of the United States, the competitiveness of the industry of the United States, the standard of living, and the quality of life are at stake.

(3) A national intermodal transportation system is a coordinated, flexible network of diverse but complementary forms of transportation that transports passengers and property in the most efficient manner. By reducing transportation costs, these intermodal systems will enhance the ability of the industry of the United States to compete in the global marketplace.

(4) All forms of transportation, including aviation and other transportation systems of the future, will be full partners in the effort to reduce energy consumption and air pollution while promoting economic development.

(5) An intermodal transportation system consists of transportation hubs that connect different forms of appropriate transportation and provides users with the most efficient means of transportation and with access to commercial centers, business locations, population centers, and the vast rural areas of the United States, as well as providing links to other forms of transportation and to intercity connections.

(6) Intermodality and flexibility are paramount issues in the process of developing an integrated system that will obtain the optimum yield of United States resources.

(7) The United States transportation infrastructure must be reshaped to provide the economic underpinnings for the United States to compete in the 21st century global economy. The United States can no longer rely on the sheer size of its economy to dominate international economic rivals and must recognize fully that its economy is no longer a separate entity but is part of the global marketplace. The future economic prosperity of the United States depends on its ability to compete in an international marketplace that is teeming with competitors but in which a full one-quarter of the economic activity of the United States takes place.

(8) The United States must make a national commitment to rebuild its infrastructure through development of a national intermodal transportation system. The United States must provide the foundation for its industries to improve productivity and their ability to compete in the global economy with a system that will transport passengers and property in an efficient manner.

(c) CAPACITY EXPANSION AND NOISE ABATEMENT.—It is in the public interest to recognize the effects of airport capacity expansion projects on aircraft noise. Efforts to increase capacity through any means can have an impact on surrounding communities. Noncompatible land uses around airports must be reduced and efforts to mitigate noise must be given a high priority.

(d) CONSISTENCY WITH AIR COMMERCE AND SAFETY POLICIES.—Each airport and airway program should be carried out consistently with section 40101(a), (b), (d), and (f) of this title to foster competition, prevent unfair methods of competition in air transportation, maintain essential air transportation, and prevent unjust and discriminatory practices, including as the practices may be applied between categories and classes of aircraft.

(e) ADEQUACY OF NAVIGATION AIDS AND AIRPORT FACILITIES.—This subchapter should be carried out to provide adequate navigation aids and airport facilities for places at which scheduled commercial air service is provided. The facilities provided may include—

(1) reliever airports; and

(2) heliports designated by the Secretary of Transportation to relieve congestion at commercial service airports by diverting aircraft passengers from fixed-wing aircraft to helicopter carriers.

(f) MAXIMUM USE OF SAFETY FACILITIES.—This subchapter should be carried out consistently with a comprehensive airspace system plan, giving highest priority to commercial service airports, to maximize the use of safety facilities, including installing, operating, and maintaining, to the extent possible with available money and considering other safety needs—

(1) electronic or visual vertical guidance on each runway;

(2) grooving or friction treatment of each primary and secondary runway;

(3) distance-to-go signs for each primary and secondary runway;

(4) a precision approach system, a vertical visual guidance system, and a full approach light system for each primary runway;

(5) a nonprecision instrument approach for each secondary runway;

(6) runway end identifier lights on each runway that does not have an approach light system;

(7) a surface movement radar system at each category III airport;

(8) a taxiway lighting and sign system;

(9) runway edge lighting and marking; and

(10) radar approach coverage for each airport terminal area.

(g) INTERMODAL PLANNING.—To carry out the policy of subsection (a)(5) of this section, the Secretary of Transportation shall take each of the following actions:

(1) COORDINATION IN DEVELOPMENT OF AIRPORT PLANS AND PROGRAMS.—Cooperate with State and local officials in developing airport plans and programs that are based on overall transportation needs. The airport plans and programs shall be developed in coordination with other transportation planning and considering comprehensive long-range land-use plans and overall social, economic, environmental, system performance, and energy conservation objectives. The process of developing airport plans and programs shall be continuing, cooperative, and comprehensive to the degree appropriate to the complexity of the transportation problems.

(2) GOALS FOR AIRPORT MASTER AND SYSTEM PLANS.—Encourage airport sponsors and State and local officials to develop airport master plans and airport system plans that—

(A) foster effective coordination between aviation planning and metropolitan planning;

(B) include an evaluation of aviation needs within the context of multimodal planning; and

(C) are integrated with metropolitan plans to ensure that airport development proposals include adequate consideration of land use and ground transportation access.

(3) REPRESENTATION OF AIRPORT OPERATORS ON MPO'S.—Encourage metropolitan planning organizations, particularly in areas with populations greater than 200,000, to establish membership positions for airport operators.

(h) CONSULTATION.—To carry out the policy of subsection (a)(6) of this section, the Secretary of Transportation shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency about any project included in a project grant application involving the location of an airport or runway, or a major runway extension, that may have a significant effect on—

(1) natural resources, including fish and wildlife;

(2) natural, scenic, and recreation assets;

(3) water and air quality; or

(4) another factor affecting the environment.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1246; Pub. L. 103–305, title I, §§104, 110, Aug. 23, 1994, 108 Stat. 1571, 1573; Pub. L. 103–429, §6(62), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–264, title I, §141, Oct. 9, 1996, 110 Stat. 3220.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47101(a)(1) ..	49 App.:2201(a)(1), (2).	Sept. 3, 1982, Pub. L. 97–248, §§502(a)(1)–(3), (6), (b), 509(b)(5) (1st sentence, last sentence words before 11th comma), 96 Stat. 671, 672, 684.
	49 App.:2201(a)(9).	Sept. 3, 1982, Pub. L. 97–248, §502(a)(9), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, §102(b)(1), (c)(1), 101 Stat. 1487.
	49 App.:2201(a)(10).	Sept. 3, 1982, Pub. L. 97–248, §502(a)(10), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, §102(b)(1), (c)(2), 101 Stat. 1487.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47101(a)(2) ..	49 App.:2201(a)(8).	Sept. 3, 1982, Pub. L. 97–248, §502(a)(8), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, §102(b)(1), 101 Stat. 1487.
47101(a)(3) ..	49 App.:2201(a)(6).	
47101(a)(4) ..	49 App.:2201(a)(7).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §502(a)(7); added Dec. 30, 1987, Pub. L. 100–223, §102(b)(2), 101 Stat. 1487.
47101(a)(5) ..	49 App.:2201(b) (1st sentence).	
47101(a)(6) ..	49 App.:2208(b)(5) (1st sentence).	
47101(a)(7) ..	49 App.:2201(a)(11).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §502(a)(11); added Dec. 30, 1987, Pub. L. 100–223, §102(c)(3), 101 Stat. 1488.
47101(a)(8) ..	49 App.:2201(a)(12).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §502(a)(12); added Dec. 30, 1987, Pub. L. 100–223, §102(c)(3), 101 Stat. 1488; Nov. 5, 1990, Pub. L. 101–508, §9109(a)(1), 104 Stat. 1388–356.
47101(a)(9) ..	49 App.:2201(a)(13).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §502(a)(13); added Dec. 30, 1987, Pub. L. 100–223, §102(c)(3), 101 Stat. 1488; Nov. 5, 1990, Pub. L. 101–508, §§9103(2), 9109(a)(2), 104 Stat. 1388–354, 1388–356.
47101(a)(10)	49 App.:2201(a)(14).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §502(a)(14); added Nov. 5, 1990, Pub. L. 101–508, §9109(a)(3), 104 Stat. 1388–356.
47101(b)	49 App.:2201(c).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §502(c), (d); added Oct. 31, 1992, Pub. L. 102–581, §101, 106 Stat. 4875.
47101(c)	49 App.:2201(d).	
47101(d)	49 App.:2201(a)(5).	Sept. 3, 1982, Pub. L. 97–248, §502(a)(5), 96 Stat. 671; Nov. 5, 1990, Pub. L. 101–508, §9103(1), 104 Stat. 1388–354.
47101(e)	49 App.:2201(a)(3).	
	49 App.:2202(a)(20).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(20), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.
47101(f)	49 App.:2201(a)(4).	Sept. 3, 1982, Pub. L. 97–248, §502(a)(4), 96 Stat. 671; Dec. 30, 1987, Pub. L. 100–223, §102(a), 101 Stat. 1487.
47101(g)	49 App.:2201(b) (2d, last sentences).	
47101(h)	49 App.:2208(b)(5) (last sentence words before 11th comma).	

In subsection (a), before clause (1), the text of 49 App.:2201(a)(2), (9), and (10) is omitted as executed. The words ''It is the policy of the United States'' are substituted for ''The Congress hereby . . . declares'' in 49 App.:2201(a) (words before cl. (1)), ''it is in the national interest'' in 49 App.:2201(a)(12), ''are not in the public interest and'' in 49 App.:2201(a)(13), ''It is declared to be in the national interest to'' in 49 App.:2201(b), and ''It is declared to be national policy that'' in 49 App.:2208(b)(5) for consistency in the revised title and with other titles of the United States Code. In clause (1), the word ''is'' is substituted for ''will continue to be'' to eliminate unnecessary words. In clause (2), the words ''with due regard'' are omitted as surplus. In clause (3), the words ''reliever airports make an important contribution to the efficient operation of the airport and airway system'' are omitted as executed. In clause (4), the words ''cargo hub airports play a critical role in the movement of commerce through the airport and airway system'' are omitted as executed. In clause (5), the words ''and promote'' are omitted as surplus.

In subsection (d), the word ''to'' is substituted for ''with due regard for the goals expressed therein of'' to eliminate unnecessary words.

In subsection (e), before clause (1), the words ''The facilities provided may include'' are substituted for ''including'' because of the restatement. Clause (2) is substituted for ''reliever heliports'' to incorporate the definition of that term from 49 App.:2202(a)(19) into this subsection.

In subsection (f), before clause (1), the words ''the goal of'' are omitted as surplus.

In subsection (g), the words ''formulated'' and ''due'' are omitted as surplus. The words ''process of developing airport plans and programs'' are substituted for ''process'' for clarity.

PUB. L. 103–429

This amends 49:47101(a)(12) to translate a cross-reference to the Airport and Airway Improvement Act of 1982 (Public Law 97–248, 96 Stat. 671) to the corresponding cross-reference of title 49, United States Code.

AMENDMENTS

1996—Subsec. (g). Pub. L. 104–264 substituted ''INTERMODAL PLANNING'' for ''COOPERATION'' in heading and amended text generally. Prior to amendment, text read as follows: ''To carry out the policy of subsection (a)(5) of this section, the Secretary of Transportation shall cooperate with State and local officials in developing airport plans and programs that are based on overall transportation needs. The airport plans and programs shall be developed in coordination with other transportation planning and considering comprehensive long-range land-use plans and overall social, economic, environmental, system performance, and energy conservation objectives. The process of developing airport plans and programs shall be continuing, cooperative, and comprehensive to the degree appropriate to the complexity of the transportation problems.''

1994—Subsec. (a)(11). Pub. L. 103–305, § 104, added par. (11).

Subsec. (a)(12). Pub. L. 103–429 substituted ''subchapter'' for ''Act''.

Pub. L. 103–305, § 110, added par. (12).

Subsec. (a)(13). Pub. L. 103–305, § 110, added par. (13).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

INNOVATIVE FINANCING TECHNIQUES

Section 148 of Pub. L. 104–264 provided that:

''(a) IN GENERAL.—The Secretary of Transportation is authorized to carry out a demonstration program under which the Secretary may approve applications under subchapter I of chapter 471 of title 49, United States Code, for not more than 10 projects for which grants received under such subchapter may be used to implement innovative financing techniques.

''(b) PURPOSE.—The purpose of the demonstration program shall be to provide information on the use of innovative financing techniques for airport development projects to Congress and the National Civil Aviation Review Commission.

''(c) LIMITATION.—In no case shall the implementation of an innovative financing technique under the demonstration program result in a direct or indirect guarantee of any airport debt instrument by the Federal Government.

''(d) INNOVATIVE FINANCING TECHNIQUE DEFINED.—In this section, the term 'innovative financing technique' shall be limited to the following:

''(1) Payment of interest.

''(2) Commercial bond insurance and other credit enhancement associated with airport bonds for eligible airport development.

''(3) Flexible non-Federal matching requirements.

''(e) EXPIRATION OF AUTHORITY.—The authority of the Secretary to carry out the demonstration program shall expire on September 30, 1998.''

AUTHORITY TO CLOSE AIRPORT LOCATED NEAR CLOSED OR REALIGNED MILITARY BASE

Section 1203 of Pub. L. 104–264 provided that: ''Notwithstanding any other provision of a law, rule, or grant assurance, an airport that is not a commercial service airport may be closed by its sponsor without any obligation to repay grants made under chapter 471 of title 49, United States Code, the Airport and Airway Improvement Act of 1982 [see References in Text note set out under section 47108 of this title], or any other law if the airport is located within 2 miles of a United States Army depot which has been closed or realigned; except that in the case of disposal of the land associated with the airport, the part of the proceeds from the disposal that is proportional to the Government's share of the cost of acquiring the land shall be paid to the Secretary of Transportation for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502).''

STUDY ON INNOVATIVE FINANCING

Section 520 of Pub. L. 103–305 provided that:

''(a) STUDY.—The Secretary shall conduct a study on innovative approaches for using Federal funds to finance airport development as a means of supplementing financing available under the Airport Improvement Program.

''(b) MATTERS TO BE CONSIDERED.—In conducting the study under subsection (a), the Secretary shall consider, at a minimum, the following:

''(1) Mechanisms that will produce greater investments in airport development per dollar of Federal expenditure.

''(2) Approaches that would permit entering into agreements with non-Federal entities, such as airport sponsors, for the loan of Federal funds, guarantee of loan repayment, or purchase of insurance or other forms of enhancement for borrower debt, including the use of unobligated Airport Improvement Program contract authority and unobligated balances in the Airport and Airway Trust Fund.

''(3) Means to lower the cost of financing airport development.

''(c) CONSULTATION.—In considering innovative financing pursuant to this section, the Secretary may consult with airport owners and operators and public and private sector experts.

''(d) REPORT TO CONGRESS.—Not later than 12 months after the date of the enactment of this Act [Aug. 23, 1994], the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 460kkk.

§ 47102. Definitions

In this subchapter—

(1) ''air carrier airport'' means a public airport regularly served by—

(A) an air carrier certificated by the Secretary of Transportation under section 41102 of this title (except a charter air carrier); or

(B) at least one air carrier—

(i) operating under an exemption from section 41101(a)(1) of this title that the Secretary grants; and

(ii) having at least 2,500 passenger boardings at the airport during the prior calendar year.

(2) ''airport''—

(A) means—

(i) an area of land or water used or intended to be used for the landing and taking off of aircraft;

(ii) an appurtenant area used or intended to be used for airport buildings or other airport facilities or rights of way; and

(iii) airport buildings and facilities located in any of those areas; and

(B) includes a heliport.

(3) ''airport development'' means the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(A) constructing, repairing, or improving a public-use airport, including—

(i) removing, lowering, relocating, marking, and lighting an airport hazard; and

(ii) preparing a plan or specification, including carrying out a field investigation.

(B) acquiring for, or installing at, a public-use airport—

(i) a navigation aid or another aid (including a precision approach system) used by aircraft for landing at or taking off from the airport, including preparing the site as required by the acquisition or installation;

(ii) safety or security equipment, including explosive detection devices and universal access systems, the Secretary requires by regulation for, or approves as contributing significantly to, the safety or security of individuals and property at the airport;

(iii) equipment to remove snow, to measure runway surface friction, or for aviation-related weather reporting;

(iv) firefighting and rescue equipment at an airport that serves scheduled passenger operations of air carrier aircraft designed for more than 20 passenger seats;

(v) aircraft deicing equipment and structures (except aircraft deicing fluids and storage facilities for the equipment and fluids); and

(vi) interactive training systems.

(C) acquiring an interest in land or airspace, including land for future airport development, that is needed—

(i) to carry out airport development described in subclause (A) or (B) of this clause; or

(ii) to remove or mitigate an existing airport hazard or prevent or limit the creation of a new airport hazard.

(D) acquiring land for, or constructing, a burn area training structure on or off the airport to provide live fire drill training for aircraft rescue and firefighting personnel required to receive the training under regulations the Secretary prescribes, including basic equipment and minimum structures to support the training under standards the Administrator of the Federal Aviation Administration prescribes.

(E) relocating after December 31, 1991, an air traffic control tower and any navigational aid (including radar) if the relocation is necessary to carry out a project approved by the Secretary under this subchapter or under section 40117.

(F) constructing, reconstructing, repairing, or improving an airport, or purchasing capital equipment for an airport, if necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), except constructing or purchasing capital equipment that would benefit primarily a revenue-producing area of the airport used by a nonaeronautical business.

(G) acquiring land for, or work necessary to construct, a pad suitable for deicing aircraft before takeoff at a commercial service airport, including constructing or reconstructing paved areas, drainage collection structures, treatment and discharge systems, appropriate lighting, paved access for deicing vehicles and aircraft, but not including acquiring aircraft deicing fluids or constructing or reconstructing storage facilities for aircraft deicing equipment or fluids.

(4) ''airport hazard'' means a structure or object of natural growth located on or near a public-use airport, or a use of land near the airport, that obstructs or otherwise is hazardous to the landing or taking off of aircraft at or from the airport.

(5) ''airport planning'' means planning as defined by regulations the Secretary prescribes and includes integrated airport system planning.

(6) ''amount made available under section 48103 of this title'' means the amount authorized for grants under section 48103 of this title as reduced by any law enacted after September 3, 1982.

(7) ''commercial service airport'' means a public airport in a State that the Secretary determines has at least 2,500 passenger boardings each year and is receiving scheduled passenger aircraft service.

(8) ''integrated airport system planning'' means developing for planning purposes information and guidance to decide the extent, kind, location, and timing of airport development needed in a specific area to establish a viable, balanced, and integrated system of public-use airports, including—

(A) identifying system needs;

(B) developing an estimate of systemwide development costs;

(C) conducting studies, surveys, and other planning actions, including those related to airport access, needed to decide which aeronautical needs should be met by a system of airports; and

(D) standards prescribed by a State, except standards for safety of approaches, for airport development at nonprimary public-use airports.

(9) ''landed weight'' means the weight of aircraft transporting only cargo in intrastate, interstate, and foreign air transportation, as the Secretary determines under regulations the Secretary prescribes.

(10) ''passenger boardings''—

(A) means revenue passenger boardings on an aircraft in service in air commerce as the Secretary determines under regulations the Secretary prescribes; and

(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.

(11) ''primary airport'' means a commercial service airport the Secretary determines to have more than 10,000 passenger boardings each year.

(12) ''project'' means a project, separate projects included in one project grant application, or all projects to be undertaken at an airport in a fiscal year, to achieve airport development or airport planning.

(13) ''project cost'' means a cost involved in carrying out a project.

(14) ''project grant'' means a grant of money the Secretary makes to a sponsor to carry out at least one project.

(15) ''public agency'' means—

(A) a State or political subdivision of a State;

(B) a tax-supported organization; or

(C) an Indian tribe or pueblo.

(16) ''public airport'' means an airport used or intended to be used for public purposes—

(A) that is under the control of a public agency; and

(B) of which the area used or intended to be used for the landing, taking off, or surface maneuvering of aircraft is publicly owned.

(17) ''public-use airport'' means—

(A) a public airport; or

(B) a privately-owned airport used or intended to be used for public purposes that is—

(i) a reliever airport; or

(ii) determined by the Secretary to have at least 2,500 passenger boardings each year and to receive scheduled passenger aircraft service.

(18) ''reliever airport'' means an airport the Secretary designates to relieve congestion at a commercial service airport and to provide more general aviation access to the overall community.

(19) ''sponsor'' means—

(A) a public agency that submits to the Secretary under this subchapter an application for financial assistance; and

(B) a private owner of a public-use airport that submits to the Secretary under this subchapter an application for financial assistance for the airport.

(20) ''State'' means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Guam.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1248; Pub. L. 103–305, title I, § 105, Aug. 23, 1994, 108 Stat. 1572; Pub. L. 104–264, title I, § 142(b)(1), Oct. 9, 1996, 110 Stat. 3221.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47102(1)	(no source).	
47102(2)	49 App.:2202(a)(1).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(1), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, § 103(a), 101 Stat. 1488.
	49 App.:2202(a)(21).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(13)–(19), (21)–(23), 96 Stat. 673, 674; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.
47102(3)	49 App.:2202(a)(2).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(2), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, § 103(b), 101 Stat. 1488; Nov. 5, 1990, Pub. L. 101–508, § 9102, 104 Stat. 1388–354; Oct. 31, 1992, Pub. L. 102–581, § 112(a), (b), 106 Stat. 4880.
47102(4)	49 App.:2202(a)(3).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(3)–(5), (7), (8), (b), 96 Stat. 673, 674.
47102(5)	49 App.:2202(a)(4).	
47102(6)	49 App.:2202(b).	
47102(7)	49 App.:2202(a)(5).	
47102(8)	49 App.:2202(a)(7).	
47102(9)	49 App.:2202(a)(9).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 503(a)(9); added Dec. 30, 1987, Pub. L. 100–223, § 103(c)(2), 101 Stat. 1488.
47102(10)	49 App.:2202(a)(10).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(10), 96 Stat. 673; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), (d), 101 Stat. 1488; Oct. 31, 1992, Pub. L. 102–581, § 115, 106 Stat. 4881.
47102(11)	49 App.:2202(a)(12).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(12), 96 Stat. 673; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), (e), 101 Stat. 1488.
47102(12)	49 App.:2202(a)(13).	
47102(13)	49 App.:2202(a)(14).	
47102(14)	49 App.:2202(a)(15).	
47102(15)	49 App.:2202(a)(16).	
47102(16)	49 App.:2202(a)(8), (17).	
47102(17)	49 App.:2202(a)(18).	
47102(18)	49 App.:2202(a)(19).	
47102(19)	49 App.:2202(a)(22).	
47102(20)	49 App.:2202(a)(23).	

In this section, before clause (1), the words ''In this subchapter'' are substituted for ''As used in this chapter'' and ''Whenever in this chapter reference is made to . . . such reference shall mean'' for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

Clause (1) restates the definition of ''air carrier airport'' that was contained in section 11(1) of the Airport and Airway Development Act of 1970 as in effect both on February 18, 1980, and immediately before September 3, 1982. The clause is added to this section to eliminate the cross-references to definitions in section 11 of the Airport and Airway Development Act of 1970 that are contained in the source provisions restated in sections 47106(d) and 47119(a) of the revised title. Because some of the terms used in the definition of ''air carrier airport'' were themselves defined in section 11, the definitions of those terms are incorporated in the definition added in clause (1) to the extent they differ from the definitions of those terms restated in this section. The words ''Secretary of Transportation'' and ''Secretary'' are substituted for ''Civil Aeronautics Board'' because of the transfer of authority under 49 App.:1551(b)(1)(E).

In clause (2), before subclause (A), the text of 49 App.:2202(a)(21) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section. In subclause (A)(iii), the words ''those areas'' are substituted for ''thereon'' for clarity.

In clause (3)(A), before subclause (i), the words ''any work involved in'' and ''or portion thereof'' are eliminated as unnecessary. The word ''reconstructing'' is omitted as being included in ''constructing''. In sub-

clause (ii), the words ''carrying out a field investigation'' are substituted for ''field investigations incidental thereto'' for clarity.

In clause (3)(B), before subclause (i), the word ''for'' is substituted for ''by'' for clarity. In subclause (i), the words ''required by the acquisition or installation'' are substituted for ''thereby required'' for clarity. In subclause (ii), the word ''individuals'' is substituted for ''persons'' for clarity and consistency in the revised title and with other titles of the Code.

In clause (3)(C), before subclause (i), the words ''interest in land or airspace'' are substituted for ''land or of any interest therein, or of any easement through or other interest in airspace'' to eliminate unnecessary words. In subclause (ii), the words ''existing airport hazard . . . the creation of a new airport hazard'' are added for clarity and consistency in this chapter.

In clause (3)(D), the words ''any . . . work involved to'' are omitted as surplus. The word ''Secretary'' is substituted for ''Department of Transportation'' because of 49:102(b). The words ''Administrator of the'' are added because of 49:106(b).

In clause (4), the word ''near'' is substituted for ''in the vicinity of'' to eliminate unnecessary words. The words ''obstructs or otherwise is hazardous to the landing or taking off'' are substituted for ''obstructs the airspace required for the flight of aircraft in landing or taking off . . . or is otherwise hazardous to such landing or taking off'' for clarity and to eliminate unnecessary words.

In clause (6), the words ''for a fiscal year . . . for that fiscal year'' are omitted as surplus. The words ''authorized for grants'' are substituted for ''made available for obligation'' for clarity and consistency. The word ''law'' is substituted for ''Act of Congress'' for consistency in the revised title and with other titles of the Code. The words ''or limited'' are omitted as surplus.

In clause (8), before subclause (A), the words ''the initial as well as continuing'' and ''nature'' are omitted as surplus. In subclause (C), the words ''needed to decide which aeronautical needs should be met'' are substituted for ''as may be necessary to determine the short-, intermediate-, and long-range aeronautical demands required to be met'' for clarity and to eliminate unnecessary words. The word ''particular'' is eliminated as unnecessary. In subclause (D), the word ''prescribed'' is substituted for ''the establishment . . . of'' for consistency in the revised title and with other titles of the Code.

In clause (9), the words ''scheduled and nonscheduled'' are omitted as surplus. The word ''cargo'' is substituted for ''property (including mail)'' for consistency in the revised title.

In clause (10), before subclause (A), the words ''passenger boardings'' are substituted for ''passengers enplaned'' for clarity. In subclause (A), the words ''domestic, territorial, and international'', ''in the States'', ''scheduled and nonscheduled'', and ''intrastate, interstate, and foreign'' are omitted as surplus. In subclause (B), the words ''who continue on an aircraft in'' are substituted for ''on board'' for clarity. (See Cong. Rec., pp. S15296, 15297, Oct. 28, 1987, daily ed.). The words ''that stops'' are substituted for ''which transit'' for clarity. The word ''located'' is omitted as surplus.

In clause (12), the words ''included in one project grant application'' are substituted for ''submitted together'', and the words ''or all projects to be undertaken'' are substituted for ''including the combined submission of all projects'', for clarity and consistency in this chapter.

In clause (15)(A), the words ''or any agency of a State, a municipality . . . other'' are omitted as surplus.

In clause (19)(A), the words ''either individually or jointly with one or more other public agencies'' are omitted as surplus.

In clause (20), the words ''the Commonwealth of'' and ''the Government of'' are omitted as surplus.

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in par. (3)(F), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Clean Air Act, referred to in par. (3)(F), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The Federal Water Pollution Control Act, referred to in par. (3)(F), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

AMENDMENTS

1996—Par. (3)(E). Pub. L. 104–264, §142(b)(1)(A), inserted ''or under section 40117'' before period at end.

Par. (3)(F). Pub. L. 104–264, §142(b)(1)(B), struck out ''paid for by a grant under this subchapter and'' after ''airport, if''.

1994—Par. (3)(B)(ii). Pub. L. 103–305 inserted '', including explosive detection devices and universal access systems,'' after ''or security equipment''.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40117, 44502, 47134, 47151, 47501, 50104 of this title; title 19 section 1644a; title 50 App. section 1622.

§ 47103. National plan of integrated airport systems

(a) GENERAL REQUIREMENTS AND CONSIDERATIONS.—The Secretary of Transportation shall maintain the plan for developing public-use airports in the United States, named ''the national plan of integrated airport systems''. The plan shall include the kind and estimated cost of eligible airport development the Secretary of Transportation considers necessary to provide a safe, efficient, and integrated system of public-use airports adequate to anticipate and meet the needs of civil aeronautics, to meet the national defense requirements of the Secretary of Defense, and to meet identified needs of the United States Postal Service. Airport development included in the plan may not be limited to meeting the needs of any particular classes or categories of public-use airports. In maintaining the plan, the Secretary of Transportation shall consider the needs of each segment of civil aviation and the relationship of each airport to—

(1) the rest of the transportation system in the particular area;

(2) forecasted technological developments in aeronautics; and

(3) forecasted developments in other modes of intercity transportation.

(b) SPECIFIC REQUIREMENTS.—In maintaining the plan, the Secretary of Transportation shall—

(1) to the extent possible and as appropriate, consult with departments, agencies, and instrumentalities of the United States Government, with public agencies, and with the aviation community;

(2) consider tall structures that reduce safety or airport capacity; and

(3) make every reasonable effort to address the needs of air cargo operations, Short Takeoff and Landing/Very Short Takeoff and Landing aircraft operations, and rotary wing aircraft operations.

(c) AVAILABILITY OF DOMESTIC MILITARY AIRPORTS AND AIRPORT FACILITIES.—To the extent possible, the Secretary of Defense shall make domestic military airports and airport facilities available for civil use. In advising the Secretary of Transportation under subsection (a) of this section, the Secretary of Defense shall indicate the extent to which domestic military airports and airport facilities are available for civil use.

(d) PUBLICATION.—The Secretary of Transportation shall publish the status of the plan every 2 years.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1251.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47103(a)	49 App.:2203(a)(1) (2d–last sentences).	Sept. 3, 1982, Pub. L. 97–248, §504(a)(1), 96 Stat. 675; Dec. 30, 1987, Pub. L. 100–223, §104(a)(1)(A), (2), 101 Stat. 1489.
47103(b)	49 App.:2203(a)(2).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §504(a)(2); added Dec. 30, 1987, Pub. L. 100–223, §104(a)(1)(B), 101 Stat. 1489.
	49 App.:2203(c).	Sept. 3, 1982, Pub. L. 97–248, §504(c), 96 Stat. 676.
47103(c)	49 App.:2203(d)(1).	Sept. 3, 1982, Pub. L. 97–248, §504(d)(1), 96 Stat. 676; Dec. 30, 1987, Pub. L. 100–223, §104(b)(2), 101 Stat. 1489.
47103(d)	49 App.:2203(a)(1) (1st sentence).	

In subsection (a), before clause (1), the words ''shall maintain'' and ''In maintaining'' are substituted for ''In reviewing and revising'' for clarity and consistency in the revised title. The word ''named'' is substituted for ''After September 3, 1982, the revised national airport system plan shall be known as'', and the words ''the national defense requirements of the Secretary of Defense'' are substituted for ''requirements in support of the national defense as determined by the Secretary of Defense'', to eliminate unnecessary words. The words ''included in the plan may not be limited to meeting the needs of any particular'' are substituted for ''identified by this plan shall not be limited to the requirements of any'' for clarity and consistency in this section. The words ''among other things'' are omitted as surplus.

In subsection (b), before clause (1), the words ''In maintaining'' are substituted for ''In reviewing and revising'' for consistency in this section. In clause (1), the words ''departments, agencies, and instrumentalities of the United States Government'' are substituted for ''Federal . . . agencies'' for consistency in the revised title and with other titles of the United States Code. In clauses (2) and (3), the words ''As soon as feasible following December 30, 1987'' are omitted as obsolete. In clause (3), the word ''legitimate'' is omitted as surplus.

In subsection (c), the words ''Secretary of Defense'' are substituted for ''Department of Defense'' because of 10:133.

In subsection (d), the words ''Not later than two years after September 3, 1982'' are omitted as executed.

§ 47104. Project grant authority

(a) GENERAL AUTHORITY.—To maintain a safe and efficient nationwide system of public-use airports that meets the present and future needs of civil aeronautics, the Secretary of Transportation may make project grants under this subchapter from the Airport and Airway Trust Fund.

(b) INCURRING OBLIGATIONS.—The Secretary may incur obligations to make grants from amounts made available under section 48103 of this title as soon as the amounts are apportioned under section 47114(c) and (d)(2) of this title.

(c) EXPIRATION OF AUTHORITY.—After September 30, 1998, the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts—

(1) remaining available after that date under section 47117(b) of this title; or

(2) recovered by the United States Government from grants made under this chapter if the amounts are obligated only for increases under section 47108(b)(2) and (3) of this title in the maximum amount of obligations of the Government for any other grant made under this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1252; Pub. L. 103–305, title I, §101(b), Aug. 23, 1994, 108 Stat. 1571; Pub. L. 103–429, §6(63), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–264, title I, §101(b), Oct. 9, 1996, 110 Stat. 3216.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47104(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.
	49 App.:2204(a) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, §505(a) (1st sentence), 96 Stat. 676.
47104(b)	49 App.:2204(b)(1) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, §505(b)(1), 96 Stat. 677; Nov. 5, 1990, Pub. L. 101–508, §9104(2), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, §102(b), 106 Stat. 4877.
47104(c)	49 App.:2204(b)(1) (last sentence).	

In subsection (a), the words ''project grants'' are substituted for ''grants . . . for airport development and airport planning by project grants'' in 49 App.:2204(a) to eliminate unnecessary words and because of the definitions of ''project'' and ''project grant'' in section 47102 of the revised title.

In subsection (b), the words ''and such authority shall exist with respect to funds available for the making of grants for any fiscal year or part thereof pursuant to subsection (a) of this section'' are omitted as surplus.

In subsection (c), the words ''except for obligations of amounts'' are substituted for ''except that nothing in this section shall preclude the obligation by grant agreement of apportioned funds'' to eliminate unnecessary words.

PUB. L. 103–429

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47104(c)	49 App.:2204(b)(1) (last sentence). 49App.:2204 note.	Sept. 3, 1982, Pub. L. 97–248, §505(b)(1) (last sentence), as amended May 26, 1994, Pub. L. 103–260, §109, 108 Stat. 700.

In subsection (c), the text of section 109(b) of the Airport Improvement Program Temporary Extension Act of 1994 (Public Law 103–260, 108 Stat. 700) is omitted as executed.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–264 substituted ''1998'' for ''1996'' in introductory provisions.

1994—Subsec. (c). Pub. L. 103–429 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''After September 30, 1996, the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts remaining available after that date under section 47117(b) of this title.''

Pub. L. 103–305 substituted ''After September 30, 1996, the Secretary'' for ''After September 30, 1993, the Secretary''.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47107, 47118, 47524, 48103 of this title.

§ 47105. Project grant applications

(a) SUBMISSION AND CONSULTATION.—(1) An application for a project grant under this subchapter may be submitted to the Secretary of Transportation by—

(A) a sponsor; or

(B) a State, as the only sponsor, for an airport development project benefitting 1 or more airports in the State or for airport planning for projects for 1 or more airports in the State if—

(i) the sponsor of each airport gives written consent that the State be the applicant;

(ii) the Secretary is satisfied there is administrative merit and aeronautical benefit in the State being the sponsor; and

(iii) an acceptable agreement exists that ensures that the State will comply with appropriate grant conditions and other assurances the Secretary requires.

(2) Before deciding to undertake an airport development project at an airport under this subchapter, a sponsor shall consult with the airport users that will be affected by the project.

(3) This subsection does not authorize a public agency that is subject to the laws of a State to apply for a project grant in violation of a law of the State.

(b) CONTENTS AND FORM.—An application for a project grant under this subchapter—

(1) shall describe the project proposed to be undertaken;

(2) may propose a project only for a public-use airport included in the current national plan of integrated airport systems;

(3) may propose airport development only if the development complies with standards the Secretary prescribes or approves, including standards for site location, airport layout, site preparation, paving, lighting, and safety of approaches; and

(4) shall be in the form and contain other information the Secretary prescribes.

(c) STATE STANDARDS FOR AIRPORT DEVELOPMENT.—The Secretary may approve standards (except standards for safety of approaches) that a State prescribes for airport development at nonprimary public-use airports in the State. On approval under this subsection, a State's standards apply to the nonprimary public-use airports in the State instead of the comparable standards prescribed by the Secretary under subsection (b)(3) of this section. The Secretary, or the State with the approval of the Secretary, may revise standards approved under this subsection.

(d) CERTIFICATION OF COMPLIANCE.—The Secretary may require a sponsor to certify that the sponsor will comply with this subchapter in carrying out the project. The Secretary may rescind the acceptance of a certification at any time. This subsection does not affect an obligation or responsibility of the Secretary under another law of the United States.

(e) PREVENTIVE MAINTENANCE.—After January 1, 1995, the Secretary may approve an application under this subchapter for the replacement or reconstruction of pavement at an airport only if the sponsor has provided such assurances or certifications as the Secretary may determine appropriate that such airport has implemented an effective airport pavement maintenance-management program. The Secretary may require such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

(f) NOTIFICATION.—The sponsor of an airport for which an amount is apportioned under section 47114(c) of this title shall notify the Secretary of the fiscal year in which the sponsor intends to submit a project grant application for the apportioned amount. The notification shall be given by the time and contain the information the Secretary prescribes.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1253; Pub. L. 103–305, title I, §§106, 107(a), Aug. 23, 1994, 108 Stat. 1572.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47105(a)(1)(A).	49 App.:2208(a)(1) (1st sentence related to authority to submit applications).	Sept. 3, 1982, Pub. L. 97–248, §§509(a)(1), (c), (d), 511(c), 96 Stat. 682, 685, 688.
47105(a)(1)(B).	49 App.:2208(a)(3).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §509(a)(3); added Dec. 30, 1987, Pub. L. 100–223, §108, 101 Stat. 1498.
47105(a)(2) ..	49 App.:2210(c).	
47105(a)(3) ..	49 App.:2208(a)(1) (3d sentence).	
47105(b)	49 App.:2208(a)(1) (1st sentence related to form and contents, 2d, last sentences).	
47105(c)	49 App.:2208(c).	
47105(d)	49 App.:2208(d).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47105(e)	49 App.:2208(e).	Sept. 3, 1982, Pub. L. 97–248, § 509(e), 96 Stat. 685; Dec. 30, 1987, Pub. L. 100–223, § 106(b)(3)(B), 101 Stat. 1498.

In subsection (a)(1), before clause (A), the words ''Subject to the provisions of this subsection'' are omitted as surplus. The words ''for one or more projects'' are omitted as surplus because of the definition of ''project grant'' in section 47102 of the revised title. Clause (A) is substituted for ''(A) any public agency, or two or more public agencies acting jointly, or (B) any sponsor of a public-use airport, or two or more such sponsors, acting jointly'' because of the definition of ''sponsor'' in section 47102 of the revised title.

In subsection (a)(2), the word ''Before'' is substituted for ''In'' as the more appropriate word. The words ''at an airport'' are substituted for ''at which such project is proposed'' to eliminate unnecessary words. The words ''airport users that will be affected by the project'' are substituted for ''affected parties'' for clarity.

Subsection (a)(3) is substituted for 49 App.:2208(a)(1) (3d sentence) to eliminate unnecessary words.

In subsection (b)(1), the words ''shall describe'' are substituted for ''setting forth'' for clarity.

In subsection (b)(2), the word ''project'' is substituted for ''airport development or airport planning'' because of the definition of ''project'' in section 47102 of the revised title. The words ''prepared pursuant to section 2203 of the Appendix'' are eliminated as unnecessary.

In subsection (c), the words ''from time to time'' are eliminated as unnecessary.

In subsection (d), the words ''in connection with any project'' are omitted as surplus. The words ''that the sponsor will comply with this subchapter in carrying out the project'' are substituted for ''that such sponsor will comply with all of the statutory and administrative requirements imposed on such sponsor under this chapter in connection with such project'' to eliminate unnecessary words. The words ''or discharge'' are omitted as included in ''affect''. The words ''including, but not limited to, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 303 of title 49, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000b) [42 U.S.C. 2000d et seq.], title VIII of the Act of April 11, 1968 (42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.)'' are omitted as included in ''another law of the United States''.

In subsection (e), the words ''of an airport for which'' are substituted for ''to which'' for clarity.

AMENDMENTS

1994—Subsec. (a)(1)(B). Pub. L. 103–305, § 106, in introductory provisions, substituted ''1 or more airports'' for ''at least 2 airports'' in two places and struck out ''similar'' before ''projects''.

Subsecs. (e), (f). Pub. L. 103–305, § 107(a), added subsec. (e) and redesignated former subsec. (e) as (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47117 of this title.

§ 47106. Project grant application approval conditioned on satisfaction of project requirements

(a) PROJECT GRANT APPLICATION APPROVAL.—The Secretary of Transportation may approve an application under this subchapter for a project grant only if the Secretary is satisfied that—

(1) the project is consistent with plans (existing at the time the project is approved) of public agencies authorized by the State in which the airport is located to plan for the development of the area surrounding the airport;

(2) the project will contribute to carrying out this subchapter;

(3) enough money is available to pay the project costs that will not be paid by the United States Government under this subchapter;

(4) the project will be completed without unreasonable delay; and

(5) the sponsor has authority to carry out the project as proposed.

(b) AIRPORT DEVELOPMENT PROJECT GRANT APPLICATION APPROVAL.—The Secretary may approve an application under this subchapter for an airport development project grant for an airport only if the Secretary is satisfied that—

(1) the sponsor, a public agency, or the Government holds good title to the areas of the airport used or intended to be used for the landing, taking off, or surface maneuvering of aircraft, or that good title will be acquired;

(2) the interests of the community in or near which the project may be located have been given fair consideration; and

(3) the application provides touchdown zone and centerline runway lighting, high intensity runway lighting, or land necessary for installing approach light systems that the Secretary, considering the category of the airport and the kind and volume of traffic using it, decides is necessary for safe and efficient use of the airport by aircraft.

(c) ENVIRONMENTAL REQUIREMENTS.—(1) The Secretary may approve an application under this subchapter for an airport development project involving the location of an airport or runway or a major runway extension—

(A) only if the sponsor certifies to the Secretary that—

(i) an opportunity for a public hearing was given to consider the economic, social, and environmental effects of the location and the location's consistency with the objectives of any planning that the community has carried out; and

(ii) the airport management board has voting representation from the communities in which the project is located or has advised the communities that they have the right to petition the Secretary about a proposed project;

(B) only if the chief executive officer of the State in which the project will be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated in compliance with applicable air and water quality standards, except that the Administrator of the Environmental Protection Agency shall make the certification instead of the chief executive officer if—

(i) the State has not approved any applicable State or local standards; and

(ii) the Administrator has prescribed applicable standards; and

(C) if the application is found to have a significant adverse effect on natural resources,

including fish and wildlife, natural, scenic, and recreation assets, water and air quality, or another factor affecting the environment, only after finding that no possible and prudent alternative to the project exists and that every reasonable step has been taken to minimize the adverse effect.

(2) The Secretary may approve an application under this subchapter for an airport development project that does not involve the location of an airport or runway, or a major runway extension, at an existing airport without requiring an environmental impact statement related to noise for the project if—

(A) completing the project would allow operations at the airport involving aircraft complying with the noise standards prescribed for ''stage 2'' aircraft in section 36.1 of title 14, Code of Federal Regulations, to replace existing operations involving aircraft that do not comply with those standards; and

(B) the project meets the other requirements under this subchapter.

(3) At the Secretary's request, the sponsor shall give the Secretary a copy of the transcript of any hearing held under paragraph (1)(A) of this subsection.

(4)(A) Notice of certification or of refusal to certify under paragraph (1)(B) of this subsection shall be provided to the Secretary not later than 60 days after the Secretary receives the application.

(B) The Secretary shall condition approval of the application on compliance with the applicable standards during construction and operation.

(5) The Secretary may make a finding under paragraph (1)(C) of this subsection only after completely reviewing the matter. The review and finding must be a matter of public record.

(d) WITHHOLDING APPROVAL.—(1) The Secretary may withhold approval of an application under this subchapter for amounts apportioned under section 47114(c) and (e) of this title for violating an assurance or requirement of this subchapter only if—

(A) the Secretary provides the sponsor an opportunity for a hearing; and

(B) not later than 180 days after the later of the date of the application or the date the Secretary discovers the noncompliance, the Secretary finds that a violation has occurred.

(2) The 180-day period may be extended by—

(A) agreement between the Secretary and the sponsor; or

(B) the hearing officer if the officer decides an extension is necessary because the sponsor did not follow the schedule the officer established.

(3) A person adversely affected by an order of the Secretary withholding approval may obtain review of the order by filing a petition in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the project is located. The action must be brought not later than 60 days after the order is served on the petitioner.

(e) REPORTS RELATING TO CONSTRUCTION OF CERTAIN NEW HUB AIRPORTS.—At least 90 days prior to the approval under this subchapter of a project grant application for construction of a new hub airport that is expected to have 0.25 percent or more of the total annual enplanements in the United States, the Secretary shall submit to Congress a report analyzing the anticipated impact of such proposed new airport on—

(1) the fees charged to air carriers (including landing fees), and other costs that will be incurred by air carriers, for using the proposed airport;

(2) air transportation that will be provided in the geographic region of the proposed airport; and

(3) the availability and cost of providing air transportation to rural areas in such geographic region.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1254; Pub. L. 103–305, title I, §§ 108, 109, Aug. 23, 1994, 108 Stat. 1573.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47106(a)	49 App.:2208(b)(1)(A)–(D).	Sept. 3, 1982, Pub. L. 97–248, §§ 503(a)(8), 509(b)(1)(A)–(D), (2)–(4), (5) (last sentence words after 11th comma), (6)(B)–(8), 96 Stat. 673, 683, 684.
47106(b)	49 App.:2202(a)(8). 49 App.:2208(b)(2)–(4).	
47106(c)(1)(A).	49 App.:2208(b)(6)(A).	Sept. 3, 1982, Pub. L. 97–248, § 509(b)(6)(A), 96 Stat. 684; Oct. 31, 1992, Pub. L. 102–581, § 113(b), 106 Stat. 4881.
47106(c)(1)(B).	49 App.:2208(b)(7)(A) (1st, 2d sentences).	
47106(c)(1)(C).	49 App.:2208(b)(5) (last sentence words between 11th and 12th commas and after last comma).	
47106(c)(2) ..	49 App.:2208(b)(8).	
47106(c)(3) ..	49 App.:2208(b)(6)(B).	
47106(c)(4) ..	49 App.:2208(b)(7)(A) (last sentence), (B).	
47106(c)(5) ..	49 App.:2208(b)(5) (last sentence words between 12th and last commas).	
47106(d)	49 App.:1731.	May 21, 1970, Pub. L. 91–258, 84 Stat. 219, § 31; added Feb. 18, 1980, Pub. L. 96–193, § 206, 94 Stat. 55; Sept. 3, 1982, Pub. L. 97–248, § 524(e), 96 Stat. 697.
47106(e)	49 App.:2218(b) (related to application).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 519(b) (related to application); added Dec. 30, 1987, Pub. L. 100–223, § 112(2), 101 Stat. 1504.

In subsection (a)(1), the word ''reasonably'' is omitted as surplus.

In subsection (a)(2), the words ''carrying out'' are substituted for ''accomplishment of the purposes of'' for consistency in the revised title.

In subsection (a)(3), the words ''that portion of'' are omitted as surplus.

In subsection (a)(5), the words ''which submitted the project grant application'' and ''legal'' are omitted as surplus.

In subsection (b), before clause (1), the words ''for an airport'' are added for clarity. In clause (1), the words ''or an agency thereof'' are omitted surplus. In clause (3), the words ''that the Secretary . . . decides is necessary'' are substituted for ''when it is determined by the Secretary that any such item is required'' to eliminate unnecessary words.

In subsection (c)(1)(B), before subclause (i), the words ''chief executive officer'' are substituted for ''Governor'' because this chapter applies to the District of Columbia which does not have a Governor. The words ''except that the Administrator of the Environmental Protection Agency shall make the certification instead of the chief executive officer if'' are substituted for ''In any case where . . . certification shall be obtained from such Administrator'' for clarity. Subclause (i) is substituted for ''such standards have not been approved'' for clarity.

In subsection (c)(2), before clause (A), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The words ''that does not involve the location of an airport or runway, or a major runway extension'' are substituted for ''(other than an airport development project in which paragraph (7)(A) applies)'' for clarity. The words ''the preparation of'' are omitted as surplus. In clause (B), the words ''statutory and administrative'' are omitted as surplus.

In subsection (c)(4)(A), the words ''to the Secretary'' are added for clarity.

In subsection (c)(5), the words ''full and'' are omitted as surplus. The words ''in writing'' are omitted as surplus because of the requirement that the decision be a matter of public record.

In subsection (d)(1), the words ''(as defined by section 1711(8) of this Appendix, as in effect on February 18, 1980)'' are omitted because of the definition of ''air carrier airport'' in section 47102 of the revised title.

In subsection (d)(2), the words ''Notwithstanding any other provision of the Airport and Airway Improvement Act of 1982 [49 App. U.S.C. 2201 et seq.]'' and ''single'' are omitted as surplus.

In subsection (e)(1) and (2), the word ''sponsor'' is substituted for ''applicant'' for consistency.

In subsection (e)(1), before clause (A), the words ''under this subchapter'' are added for consistency in this section. The word ''other'' is omitted as surplus.

In subsection (e)(2)(A), the word ''mutual'' is omitted as surplus.

In subsection (e)(3), the words ''adversely affected'' are substituted for ''aggrieved'' for consistency in the revised title and with other titles of the United States Code. The words ''the date on which'' are omitted as surplus.

AMENDMENTS

1994—Subsecs. (d), (e). Pub. L. 103–305 added subsec. (e), redesignated former subsec. (e) as (d), and struck out former subsec. (d) which read as follows:

''(d) GENERAL AVIATION AIRPORT PROJECT GRANT APPLICATION APPROVAL.—(1) In this subsection, 'general aviation airport' means a public airport that is not an air carrier airport.

''(2) The Secretary may approve an application under this subchapter for an airport development project included in a project grant application involving the construction or extension of a runway at a general aviation airport located on both sides of a boundary line separating 2 counties within a State only if, before the application is submitted to the Secretary, the project is approved by the governing body of each village incorporated under the laws of the State and located entirely within 5 miles of the nearest boundary of the airport.''

§ 47107. Project grant application approval conditioned on assurances about airport operations

(a) GENERAL WRITTEN ASSURANCES.—The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that—

(1) the airport will be available for public use on reasonable conditions and without unjust discrimination;

(2) air carriers making similar use of the airport will be subject to substantially comparable charges—

(A) for facilities directly and substantially related to providing air transportation; and

(B) regulations and conditions, except for differences based on reasonable classifications, such as between—

(i) tenants and nontenants; and

(ii) signatory and nonsignatory carriers;

(3) the airport operator will not withhold unreasonably the classification or status of tenant or signatory from an air carrier that assumes obligations substantially similar to those already imposed on air carriers of that classification or status;

(4) a person providing, or intending to provide, aeronautical services to the public will not be given an exclusive right to use the airport, with a right given to only one fixed-base operator to provide services at an airport deemed not to be an exclusive right if—

(A) the right would be unreasonably costly, burdensome, or impractical for more than one fixed-base operator to provide the services; and

(B) allowing more than one fixed-base operator to provide the services would require reducing the space leased under an existing agreement between the one fixed-base operator and the airport owner or operator;

(5) fixed-base operators similarly using the airport will be subject to the same charges;

(6) an air carrier using the airport may service itself or use any fixed-base operator allowed by the airport operator to service any carrier at the airport;

(7) the airport and facilities on or connected with the airport will be operated and maintained suitably, with consideration given to climatic and flood conditions;

(8) a proposal to close the airport temporarily for a nonaeronautical purpose must first be approved by the Secretary;

(9) appropriate action will be taken to ensure that terminal airspace required to protect instrument and visual operations to the airport (including operations at established minimum flight altitudes) will be cleared and protected by mitigating existing, and preventing future, airport hazards;

(10) appropriate action, including the adoption of zoning laws, has been or will be taken to the extent reasonable to restrict the use of land next to or near the airport to uses that are compatible with normal airport operations;

(11) each of the airport's facilities developed with financial assistance from the United States Government and each of the airport's facilities usable for the landing and taking off of aircraft always will be available without charge for use by Government aircraft in common with other aircraft, except that if the use is substantial, the Government may be charged a reasonable share, proportionate to the use, of the cost of operating and maintaining the facility used;

(12) the airport owner or operator will provide, without charge to the Government, prop-

erty interests of the sponsor in land or water areas or buildings that the Secretary decides are desirable for, and that will be used for, constructing at Government expense, facilities for carrying out activities related to air traffic control or navigation;

(13) the airport owner or operator will maintain a schedule of charges for use of facilities and services at the airport—

(A) that will make the airport as self-sustaining as possible under the circumstances existing at the airport, including volume of traffic and economy of collection; and

(B) without including in the rate base used for the charges the Government's share of costs for any project for which a grant is made under this subchapter or was made under the Federal Airport Act or the Airport and Airway Development Act of 1970;

(14) the project accounts and records will be kept using a standard system of accounting that the Secretary, after consulting with appropriate public agencies, prescribes;

(15) the airport owner or operator will submit any annual or special airport financial and operations reports to the Secretary that the Secretary reasonably requests and make such reports available to the public;

(16) the airport owner or operator will maintain a current layout plan of the airport that meets the following requirements:

(A) the plan will be in a form the Secretary prescribes;

(B) the Secretary will approve the plan and any revision or modification before the plan, revision, or modification takes effect;

(C) the owner or operator will not make or allow any alteration in the airport or any of its facilities if the alteration does not comply with the plan the Secretary approves, and the Secretary is of the opinion that the alteration may affect adversely the safety, utility, or efficiency of the airport; and

(D) when an alteration in the airport or its facility is made that does not conform to the approved plan and that the Secretary decides adversely affects the safety, utility, or efficiency of any property on or off the airport that is owned, leased, or financed by the Government, the owner or operator, if requested by the Secretary, will—

(i) eliminate the adverse effect in a way the Secretary approves; or

(ii) bear all cost of relocating the property or its replacement to a site acceptable to the Secretary and of restoring the property or its replacement to the level of safety, utility, efficiency, and cost of operation that existed before the alteration was made;

(17) each contract and subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, and related services will be awarded in the same way that a contract for architectural and engineering services is negotiated under title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.) or an equivalent qualifications-based requirement prescribed for or by the sponsor;

(18) the airport and each airport record will be available for inspection by the Secretary on reasonable request, and a report of the airport budget will be available to the public at reasonable times and places;

(19) the airport owner or operator will submit to the Secretary and make available to the public an annual report listing in detail—

(A) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

(B) all services and property provided to other units of government and the amount of compensation received for provision of each such service and property; and

(20) the airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport, but the sponsor does not have any obligation under this paragraph, or because of it, to fund special facilities for intercity bus service or for other modes of transportation.

(b) WRITTEN ASSURANCES ON USE OF REVENUE.—(1) The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that local taxes on aviation fuel (except taxes in effect on December 30, 1987) and the revenues generated by a public airport will be expended for the capital or operating costs of—

(A) the airport;

(B) the local airport system; or

(C) other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property.

(2) Paragraph (1) of this subsection does not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(3) This subsection does not prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(c) WRITTEN ASSURANCES ON ACQUIRING LAND.—(1) In this subsection, land is needed for an airport purpose (except a noise compatibility purpose) if—

(A)(i) the land may be needed for an aeronautical purpose (including runway protection zone) or serves as noise buffer land; and

(ii) revenue from interim uses of the land contributes to the financial self-sufficiency of the airport; and

(B) for land purchased with a grant the owner or operator received not later than De-

cember 30, 1987, the Secretary of Transportation or the department, agency, or instrumentality of the Government that made the grant was notified by the owner or operator of the use of the land and did not object to the use and the land is still being used for that purpose.

(2) The Secretary of Transportation may approve an application under this subchapter for an airport development project grant only if the Secretary receives written assurances, satisfactory to the Secretary, that if an airport owner or operator has received or will receive a grant for acquiring land and—

(A) if the land was or will be acquired for a noise compatibility purpose—

(i) the owner or operator will dispose of the land at fair market value at the earliest practicable time after the land no longer is needed for a noise compatibility purpose;

(ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and

(iii) the part of the proceeds from disposing of the land that is proportional to the Government's share of the cost of acquiring the land will be paid to the Secretary for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) or, as the Secretary prescribes, reinvested in an approved noise compatibility project; or

(B) if the land was or will be acquired for an airport purpose (except a noise compatibility purpose)—

(i) the owner or operator, when the land no longer is needed for an airport purpose, will dispose of the land at fair market value or make available to the Secretary an amount equal to the Government's proportional share of the fair market value;

(ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and

(iii) the part of the proceeds from disposing of the land that is proportional to the Government's share of the cost of acquiring the land will be reinvested, on application to the Secretary, in another eligible airport development project the Secretary approves under this subchapter or paid to the Secretary for deposit in the Fund if another eligible project does not exist.

(3) Proceeds referred to in paragraph (2)(A)(iii) and (B)(iii) of this subsection and deposited in the Airport and Airway Trust Fund are available as provided in subsection (f) of this section.

(d) ASSURANCES OF CONTINUATION AS PUBLIC-USE AIRPORT.—The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a privately owned public-use airport only if the Secretary receives appropriate assurances that the airport will continue to function as a public-use airport during the economic life (that must be at least 10 years) of any facility at the airport that was developed with Government financial assistance under this subchapter.

(e) WRITTEN ASSURANCES OF OPPORTUNITIES FOR SMALL BUSINESS CONCERNS.—(1) The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that the airport owner or operator will take necessary action to ensure, to the maximum extent practicable, that at least 10 percent of all businesses at the airport selling consumer products or providing consumer services to the public are small business concerns (as defined by regulations of the Secretary) owned and controlled by a socially and economically disadvantaged individual (as defined in section 47113(a) of this title) or qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act).

(2) An airport owner or operator may meet the percentage goal of paragraph (1) of this subsection by including any business operated through a management contract or subcontract. The dollar amount of a management contract or subcontract with a disadvantaged business enterprise shall be added to the total participation by disadvantaged business enterprises in airport concessions and to the base from which the airport's percentage goal is calculated. The dollar amount of a management contract or subcontract with a non-disadvantaged business enterprise and the gross revenue of business activities to which the management contract or subcontract pertains may not be added to this base.

(3) Except as provided in paragraph (4) of this subsection, an airport owner or operator may meet the percentage goal of paragraph (1) of this subsection by including the purchase from disadvantaged business enterprises of goods and services used in businesses conducted at the airport, but the owner or operator and the businesses conducted at the airport shall make good faith efforts to explore all available options to achieve, to the maximum extent practicable, compliance with the goal through direct ownership arrangements, including joint ventures and franchises.

(4)(A) In complying with paragraph (1) of this subsection, an airport owner or operator shall include the revenues of car rental firms at the airport in the base from which the percentage goal in paragraph (1) is calculated.

(B) An airport owner or operator may require a car rental firm to meet a requirement under paragraph (1) of this subsection by purchasing or leasing goods or services from a disadvantaged business enterprise. If an owner or operator requires such a purchase or lease, a car rental firm shall be permitted to meet the requirement by including purchases or leases of vehicles from any vendor that qualifies as a small business concern owned and controlled by a socially and economically disadvantaged individual or as a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act).

(C) This subsection does not require a car rental firm to change its corporate structure to

provide for direct ownership arrangements to meet the requirements of this subsection.

(5) This subsection does not preempt—

(A) a State or local law, regulation, or policy enacted by the governing body of an airport owner or operator; or

(B) the authority of a State or local government or airport owner or operator to adopt or enforce a law, regulation, or policy related to disadvantaged business enterprises.

(6) An airport owner or operator may provide opportunities for a small business concern owned and controlled by a socially and economically disadvantaged individual or a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act) to participate through direct contractual agreement with that concern.

(7) An air carrier that provides passenger or property-carrying services or another business that conducts aeronautical activities at an airport may not be included in the percentage goal of paragraph (1) of this subsection for participation of small business concerns at the airport.

(8) Not later than April 29, 1993, the Secretary of Transportation shall prescribe regulations to carry out this subsection.

(f) AVAILABILITY OF AMOUNTS.—An amount deposited in the Airport and Airway Trust Fund under—

(1) subsection (c)(2)(A)(iii) of this section is available to the Secretary of Transportation to make a grant for airport development or airport planning under section 47104 of this title;

(2) subsection (c)(2)(B)(iii) of this section is available to the Secretary—

(A) to make a grant for a purpose described in section 47115(b) of this title; and

(B) for use under section 47114(d)(2) of this title at another airport in the State in which the land was disposed of under subsection (c)(2)(B)(ii) of this section; and

(3) subsection (c)(2)(B)(iii) of this section is in addition to an amount made available to the Secretary under section 48103 of this title and not subject to apportionment under section 47114 of this title.

(g) ENSURING COMPLIANCE.—(1) To ensure compliance with this section, the Secretary of Transportation—

(A) shall prescribe requirements for sponsors that the Secretary considers necessary; and

(B) may make a contract with a public agency.

(2) The Secretary of Transportation may approve an application for a project grant only if the Secretary is satisfied that the requirements prescribed under paragraph (1)(A) of this subsection have been or will be met.

(h) MODIFYING ASSURANCES AND REQUIRING COMPLIANCE WITH ADDITIONAL ASSURANCES.—Before modifying an assurance required of a person receiving a grant under this subchapter and in effect after December 29, 1987, or to require compliance with an additional assurance from the person, the Secretary of Transportation must—

(1) publish notice of the proposed modification in the Federal Register; and

(2) provide an opportunity for comment on the proposal.

(i) RELIEF FROM OBLIGATION TO PROVIDE FREE SPACE.—When a sponsor provides a property interest in a land or water area or a building that the Secretary of Transportation uses to construct a facility at Government expense, the Secretary may relieve the sponsor from an obligation in a contract made under this chapter, the Airport and Airway Development Act of 1970, or the Federal Airport Act to provide free space to the Government in an airport building, to the extent the Secretary finds that the free space no longer is needed to carry out activities related to air traffic control or navigation.

(j) USE OF REVENUE IN HAWAII.—(1) In this subsection—

(A) ''duty-free merchandise'' and ''duty-free sales enterprise'' have the same meanings given those terms in section 555(b)(8) of the Tariff Act of 1930 (19 U.S.C. 1555(b)(8)).

(B) ''highway'' and ''Federal-aid system'' have the same meanings given those terms in section 101(a) of title 23.

(2) Notwithstanding subsection (b)(1) of this section, Hawaii may use, for a project for construction or reconstruction of a highway on a Federal-aid system that is not more than 10 miles by road from an airport and that will facilitate access to the airport, revenue from the sales at off-airport locations in Hawaii of duty-free merchandise under a contract between Hawaii and a duty-free sales enterprise. However, the revenue resulting during a Hawaiian fiscal year may be used only if the amount of the revenue, plus amounts Hawaii receives in the fiscal year from all other sources for costs Hawaii incurs for operating all airports it operates and for debt service related to capital projects for the airports (including interest and amortization of principal costs), is more than 150 percent of the projected costs for the fiscal year.

(3)(A) Revenue from sales referred to in paragraph (2) of this subsection in a Hawaiian fiscal year that Hawaii may use may not be more than the amount that is greater than 150 percent as determined under paragraph (2).

(B) The maximum amount of revenue Hawaii may use under paragraph (2) of this subsection is $250,000,000.

(4) If a fee imposed or collected for rent, landing, or service from an aircraft operator by an airport operated by Hawaii is increased during the period from May 4, 1990, through December 31, 1994, by more than the percentage change in the Consumer Price Index of All Urban Consumers for Honolulu, Hawaii, that the Secretary of Labor publishes during that period and if revenue derived from the fee increases because the fee increased, the amount under paragraph (3)(B) of this subsection shall be reduced by the amount of the projected revenue increase in the period less the part of the increase attributable to changes in the Index in the period.

(5) Hawaii shall determine costs, revenue, and projected revenue increases referred to in this subsection and shall submit the determinations to the Secretary of Transportation. A determination is approved unless the Secretary disapproves it not later than 30 days after it is submitted.

(6) Hawaii is not eligible for a grant under section 47115 of this title in a fiscal year in which Hawaii uses under paragraph (2) of this subsection revenue from sales referred to in paragraph (2). Hawaii shall repay amounts it receives in a fiscal year under a grant it is not eligible to receive because of this paragraph to the Secretary of Transportation for deposit in the discretionary fund established under section 47115.

(7)(A) This subsection applies only to revenue from sales referred to in paragraph (2) of this subsection from May 5, 1990, through December 30, 1994, and to amounts in the Airport Revenue Fund of Hawaii that are attributable to revenue before May 4, 1990, on sales referred to in paragraph (2).

(B) Revenue from sales referred to in paragraph (2) of this subsection from May 5, 1990, through December 30, 1994, may be used under paragraph (2) in any Hawaiian fiscal year, including a Hawaiian fiscal year beginning after December 31, 1994.

(k) ANNUAL SUMMARIES OF FINANCIAL REPORTS.—The Secretary shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual summary of the reports submitted to the Secretary under subsection (a)(19) of this section and under section 111(b) of the Federal Aviation Administration Authorization Act of 1994.

(*l*) POLICIES AND PROCEDURES TO ENSURE ENFORCEMENT AGAINST ILLEGAL DIVERSION OF AIRPORT REVENUE.—

(1) IN GENERAL.—Not later than 90 days after August 23, 1994, the Secretary of Transportation shall establish policies and procedures that will assure the prompt and effective enforcement of subsections (a)(13) and (b) of this section and grant assurances made under such subsections. Such policies and procedures shall recognize the exemption provision in subsection (b)(2) of this section and shall respond to the information contained in the reports of the Inspector General of the Department of Transportation on airport revenue diversion and such other relevant information as the Secretary may by law consider.

(2) REVENUE DIVERSION.—Policies and procedures to be established pursuant to paragraph (1) of this subsection shall prohibit, at a minimum, the diversion of airport revenues (except as authorized under subsection (b) of this section) through—

(A) direct payments or indirect payments, other than payments reflecting the value of services and facilities provided to the airport;

(B) use of airport revenues for general economic development, marketing, and promotional activities unrelated to airports or airport systems;

(C) payments in lieu of taxes or other assessments that exceed the value of services provided; or

(D) payments to compensate nonsponsoring governmental bodies for lost tax revenues exceeding stated tax rates.

(3) EFFORTS TO BE SELF-SUSTAINING.—With respect to subsection (a)(13) of this section, policies and procedures to be established pursuant to paragraph (1) of this subsection shall take into account, at a minimum, whether owners and operators of airports, when entering into new or revised agreements or otherwise establishing rates, charges, and fees, have undertaken reasonable efforts to make their particular airports as self-sustaining as possible under the circumstances existing at such airports.

(4) ADMINISTRATIVE SAFEGUARDS.—Policies and procedures to be established pursuant to paragraph (1) shall mandate internal controls, auditing requirements, and increased levels of Department of Transportation personnel sufficient to respond fully and promptly to complaints received regarding possible violations of subsections (a)(13) and (b) of this section and grant assurances made under such subsections and to alert the Secretary to such possible violations.

(5) STATUTE OF LIMITATIONS.—In addition to the statute of limitations specified in subsection (n)(7), with respect to project grants made under this chapter—

(A) any request by a sponsor to any airport for additional payments for services conducted off of the airport or for reimbursement for capital contributions or operating expenses shall be filed not later than 6 years after the date on which the expense is incurred; and

(B) any amount of airport funds that are used to make a payment or reimbursement as described in subparagraph (A) after the date specified in that subparagraph shall be considered to be an illegal diversion of airport revenues that is subject to subsection (n).

(m) AUDIT CERTIFICATION.—

(1) IN GENERAL.—The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, shall promulgate regulations that require a recipient of a project grant (or any other recipient of Federal financial assistance that is provided for an airport) to include as part of an annual audit conducted under sections 7501 through 7505 of title 31, a review and opinion of the review concerning the funding activities with respect to an airport that is the subject of the project grant (or other Federal financial assistance) and the sponsors, owners, or operators (or other recipients) involved.

(2) CONTENT OF REVIEW.—A review conducted under paragraph (1) shall provide reasonable assurances that funds paid or transferred to sponsors are paid or transferred in a manner consistent with the applicable requirements of this chapter and any other applicable provision of law (including regulations promulgated by the Secretary or the Administrator).

(3) REQUIREMENTS FOR AUDIT REPORT.—The report submitted to the Secretary under this subsection shall include a specific determination and opinion regarding the appropriateness of the disposition of airport funds paid or transferred to a sponsor.

(n) RECOVERY OF ILLEGALLY DIVERTED FUNDS.—

(1) IN GENERAL.—Not later than 180 days after the issuance of an audit or any other report that identifies an illegal diversion of airport revenues (as determined under subsections (b) and (*l*) and section 47133), the Secretary, acting through the Administrator, shall—

(A) review the audit or report;

(B) perform appropriate factfinding; and

(C) conduct a hearing and render a final determination concerning whether the illegal diversion of airport revenues asserted in the audit or report occurred.

(2) NOTIFICATION.—Upon making such a finding, the Secretary, acting through the Administrator, shall provide written notification to the sponsor and the airport of—

(A) the finding; and

(B) the obligations of the sponsor to reimburse the airport involved under this paragraph.

(3) ADMINISTRATIVE ACTION.—The Secretary may withhold any amount from funds that would otherwise be made available to the sponsor, including funds that would otherwise be made available to a State, municipality, or political subdivision thereof (including any multimodal transportation agency or transit authority of which the sponsor is a member entity) as part of an apportionment or grant made available pursuant to this title, if the sponsor—

(A) receives notification that the sponsor is required to reimburse an airport; and

(B) has had an opportunity to reimburse the airport, but has failed to do so.

(4) CIVIL ACTION.—If a sponsor fails to pay an amount specified under paragraph (3) during the 180-day period beginning on the date of notification and the Secretary is unable to withhold a sufficient amount under paragraph (3), the Secretary, acting through the Administrator, may initiate a civil action under which the sponsor shall be liable for civil penalty in an amount equal to the illegal diversion in question plus interest (as determined under subsection (*o*)).

(5) DISPOSITION OF PENALTIES.—

(A) AMOUNTS WITHHELD.—The Secretary or the Administrator shall transfer any amounts withheld under paragraph (3) to the Airport and Airway Trust Fund.

(B) CIVIL PENALTIES.—With respect to any amount collected by a court in a civil action under paragraph (4), the court shall cause to be transferred to the Airport and Airway Trust Fund any amount collected as a civil penalty under paragraph (4).

(6) REIMBURSEMENT.—The Secretary, acting through the Administrator, shall, as soon as practicable after any amount is collected from a sponsor under paragraph (4), cause to be transferred from the Airport and Airway Trust Fund to an airport affected by a diversion that is the subject of a civil action under paragraph (4), reimbursement in an amount equal to the amount that has been collected from the sponsor under paragraph (4) (including any amount of interest calculated under subsection (*o*)).

(7) STATUTE OF LIMITATIONS.—No person may bring an action for the recovery of funds illegally diverted in violation of this section (as determined under subsections (b) and (*l*)) or section 47133 after the date that is 6 years after the date on which the diversion occurred.

(*o*) INTEREST.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary, acting through the Administrator, shall charge a minimum annual rate of interest on the amount of any illegal diversion of revenues referred to in subsection (n) in an amount equal to the average investment interest rate for tax and loan accounts of the Department of the Treasury (as determined by the Secretary of the Treasury) for the applicable calendar year, rounded to the nearest whole percentage point.

(2) ADJUSTMENT OF INTEREST RATES.—If, with respect to a calendar quarter, the average investment interest rate for tax and loan accounts of the Department of the Treasury exceeds the average investment interest rate for the immediately preceding calendar quarter, rounded to the nearest whole percentage point, the Secretary of the Treasury may adjust the interest rate charged under this subsection in a manner that reflects that change.

(3) ACCRUAL.—Interest assessed under subsection (n) shall accrue from the date of the actual illegal diversion of revenues referred to in subsection (n).

(4) DETERMINATION OF APPLICABLE RATE.—The applicable rate of interest charged under paragraph (1) shall—

(A) be the rate in effect on the date on which interest begins to accrue under paragraph (3); and

(B) remain at a rate fixed under subparagraph (A) during the duration of the indebtedness.

(p) PAYMENT BY AIRPORT TO SPONSOR.—If, in the course of an audit or other review conducted under this section, the Secretary or the Administrator determines that an airport owes a sponsor funds as a result of activities conducted by the sponsor or expenditures by the sponsor for the benefit of the airport, interest on that amount shall be determined in the same manner as provided in paragraphs (1) through (4) of subsection (*o*), except that the amount of any interest assessed under this subsection shall be determined from the date on which the Secretary or the Administrator makes that determination.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1256; Pub. L. 103–305, title I, §§ 111(a), (c), 112(a), Aug. 23, 1994, 108 Stat. 1573, 1574; Pub. L. 104–264, title I, § 143, title VIII, § 805(a), (b)(2), Oct. 9, 1996, 110 Stat. 3221, 3271, 3274; Pub. L. 104–287, § 5(9), (80), Oct. 11, 1996, 110 Stat. 3389, 3397; Pub. L. 105–135, title VI, § 604(h)(1), Dec. 2, 1997, 111 Stat. 2634.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47107(a)	49 App.:2202(a)(6).	Sept. 3, 1982, Pub. L. 97–248, §§ 503(a)(6), 505(b)(2), 509(b)(1)(E), 511(a)(1)(B), (C), (2), (5)–(10), (b), 96 Stat. 673, 677, 683, 686, 687.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:2208(b)(1)(E) (related to 49 App.:2210(a) (1)–(11), (15), (16)).	
	49 App.:2210(a)(1)(A).	Sept. 3, 1982, Pub. L. 97–248, § 511(a)(1)(A), 96 Stat. 686; Dec. 30, 1987, Pub. L. 100–223, § 109(a), 101 Stat. 1499.
	49 App.:2210(a)(1)(B), (C), (2).	
	49 App.:2210(a)(3).	Sept. 3, 1982, Pub. L. 97–248, § 511(a)(3), 96 Stat. 686; Dec. 30, 1987, Pub. L. 100–223, § 109(b), 101 Stat. 1499.
	49 App.:2210(a)(4).	Sept. 3, 1982, Pub. L. 97–248, § 511(a)(4), 96 Stat. 686; restated Dec. 30, 1987, Pub. L. 100–223, § 109(c), 101 Stat. 1499.
	49 App.:2210(a) (5)–(10).	
	49 App.:2210(a)(11).	Sept. 3, 1982, Pub. L. 97–248, § 511(a)(11), 96 Stat. 687; Oct. 31, 1992, Pub. L. 102–581, § 113(a), 106 Stat. 4881.
	49 App.:2210(a)(15).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 511(a)(15); added Dec. 30, 1987, Pub. L. 100–223, § 109(f), 101 Stat. 1500.
	49 App.:2210(a)(16).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 511(a)(16); added Dec. 30, 1987, Pub. L. 100–223, § 109(g), 101 Stat. 1501.
47107(b)(1), (2).	49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(12)).	
	49 App.:2210(a)(12).	Sept. 3, 1982, Pub. L. 97–248, § 511(a)(12), 96 Stat. 687; restated Dec. 30, 1987, Pub. L. 100–223, § 109(d), 101 Stat. 1499.
47107(b)(3) ..	49 App.:2210(d).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 511(d); added Dec. 30, 1987, Pub. L. 100–223, § 109(i), 101 Stat. 1501.
47107(c)(1), (2).	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.
	49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(13), (14)).	
	49 App.:2210(a)(13).	Sept. 3, 1982, Pub. L. 97–248, § 511(a)(13), 96 Stat. 688; restated Dec. 30, 1987, Pub. L. 100–223, § 109(e), 101 Stat. 1499.
	49 App.:2210(a)(14).	Sept. 3, 1982, Pub. L. 97–248, § 511(a)(14), 96 Stat. 688; Dec. 30, 1987, Pub. L. 100–223, § 109(e), 101 Stat. 1499; restated Dec. 15, 1989, Pub. L. 101–236, § 4, 103 Stat. 2061.
47107(c)(3) ..	(no source).	
47107(d)	49 App.:2204(b)(2).	
	49 App.:2208(b)(1)(E) (related to 49 App.:2204(b)(2)).	
47107(e)	49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(17)).	
	49 App.:2210(a)(17).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 511(a)(17); added Dec. 30, 1987, Pub. L. 100–223, § 109(h), 101 Stat. 1501; Oct. 31, 1992, Pub. L. 102–581, § 117(a), 106 Stat. 4882.
	49 App.:2210(h).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 511(h); added Oct. 31, 1992, Pub. L. 102–581, § 117(b), 106 Stat. 4882.
	49 App.:2210 (note).	Oct. 31, 1992, Pub. L. 102–581, § 117(d), 106 Stat. 4883.
47107(f)	49 App.:2210(e).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 511(e); added Dec. 30, 1987, Pub. L. 100–223, § 109(j), 101 Stat. 1501.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47107(g)(1) ..	49 App.:2210(b) (1st, 2d sentences).	
47107(g)(2) ..	49 App.:2208(b)(1)(E) (related to 49 App.:2210(b)).	
47107(h)	49 App.:2210(f).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 511(f); added Dec. 30, 1987, Pub. L. 100–223, § 109(k), 101 Stat. 1502.
47107(i)	49 App.:2210(b) (last sentence).	
47107(j)(1) ...	49 App.:2210(g)(4)(B), (D).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 511(g); added May 4, 1990, Pub. L. 101–281, § 2, 104 Stat. 164.
47107(j)(2) ...	49 App.:2210(g)(1), (2)(B), (4)(A), (C).	
47107(j)(3) ...	49 App.:2210(g)(2)(C), (D).	
47107(j)(4) ...	49 App.:2210(g)(2)(E).	
47107(j)(5) ...	49 App.:2210(g)(2)(F).	
47107(j)(6) ...	49 App.:2210(g)(2)(G).	
47107(j) (7)(A).	49 App.:2210(g)(2)(A).	
47107(j) (7)(B).	49 App.:2210(g)(3).	

In subsection (a), before clause (1), the words ''may approve a project grant application under this subchapter for an airport development project only if'' are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)) and the words ''As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter . . . shall'' in 49 App.:2210(a) for clarity and to eliminate unnecessary words. In clause (1), the words ''to which the project relates'' and ''fair and'' are omitted as surplus. In clause (2), before subclause (A), the words ''including the requirement that'' are omitted as unnecessary because of the restatement. The words ''air carriers making similar use of the airport'' are substituted for ''each air carrier using such airport (whether as a tenant, nontenant, or subtenant of another air carrier tenant) . . . all such air carriers which make similar use of such airport'' to eliminate unnecessary words. The words ''and which utilize similar facilities'' are omitted because of the definition of ''airport'' in section 47102 of the revised title. The words ''nondiscriminatory and'' and ''rates, fees, rentals, and other'' are omitted as surplus. In subclause (B), before subclause (i), the words ''except for differences based on'' are substituted for ''subject to'' for clarity. In clause (3), the words ''airport operator'' are substituted for ''airport'' for clarity and consistency in this chapter. In clause (4), before subclause (A), the words ''a right given to only one fixed-base operator to provide services at an airport'' are substituted for ''the providing of services at an airport by a single fixed-based operator'' for clarity. In subclause (B), the words ''the airport operator or owner'' are substituted for ''such airport'' for clarity and consistency in this subchapter. Clause (5) is substituted for 49 App.:2210(a)(1)(B) for consistency and to eliminate unnecessary words. In clause (6), the words ''allowed by the airport operator'' are substituted for ''authorized by the airport or permitted by the airport'' for clarity and consistency in this chapter and to eliminate unnecessary words. In clause (9), the words ''operations at'' are added for clarity. The words ''adequately'', ''removing, lowering, relocating, marking, or lighting or otherwise'', and ''the establishment or creation of'' are omitted as surplus. In clause (10), the word ''near'' is substituted for ''in the immediate vicinity of'', and the word ''uses'' is substituted for ''activities and purposes'', to eliminate unnecessary words. The words ''including landing and takeoff of aircraft'' are omitted as surplus. In clause (12), the words ''property interests of the sponsor in land or water areas or buildings'' are substituted for ''any areas of land or water, or estate therein, or rights in buildings of the sponsor'' for consistency in the revised title and to eliminate unnecessary words. The

words ''necessary or'' are omitted as surplus. The words ''for, and that will be used for, constructing . . . facilities for carrying out activities related to air traffic control or navigation'' are substituted for ''for use in connection with any air traffic control or navigation activities, or weather-reporting and communication activities related to air traffic control . . . for construction . . . of space or facilities for such purposes'' to eliminate unnecessary words. In clause (13), before subclause (A), the words ''schedule of charges'' are substituted for ''fee and rental structure'' for clarity and consistency in this chapter. In subclause (A), the word ''particular'' is omitted as surplus. The word ''including'' is substituted for ''taking into account such factors as'' to eliminate unnecessary words. In subclause (B), the words ''fees, rates, and'' are omitted as surplus. The words ''airport development or airport planning'' are omitted because of the definition of ''project'' in section 47102 of the revised title. In clause (16), before subclause (A), the words ''maintain . . . current'' are substituted for ''keep up to date at all times'' to eliminate unnecessary words. In subclause (B), the words ''be submitted to, and'' and ''amendment'' are omitted as surplus. In subclauses (C) and (D), the words ''changes or'' and ''change or'', respectively, are omitted as surplus. In subclause (D)(ii), the words ''was made'' are added for clarity. In clause (17), the words ''with respect to the project'' are omitted as surplus. In clause (18), the words ''duly authorized agent of'' are omitted because of 49:322(b).

In subsection (b)(1), before clause (A), the words ''may approve a project grant application under this subchapter for an airport development project only if'' are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(12)) and ''As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter . . . shall'' in 49 App.:2210(a) for clarity and to eliminate unnecessary words. In clause (C) the word ''actual'' is omitted as surplus.

In subsection (b)(2), the words ''Paragraph (1) of this subsection does not apply'' are substituted for ''except that . . . then this limitation on the use of all other revenues generated by the airport . . . shall not apply'' to eliminate unnecessary words. The word ''law'' is substituted for ''provisions . . . in governing statutes'' for consistency in the revised title and to eliminate unnecessary words.

In subsection (c)(1), before clause (A), the words ''considered to be'' are omitted as surplus. In clause (B), the words ''department, agency, or instrumentality of the Government'' are substituted for ''Federal agency'' for consistency in the revised title and with other titles of the United States Code.

In subsection (c)(2), before clause (A), the words ''may approve an application under this subchapter for an airport development project grant only if'' are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(13), (14)) and ''As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter'' in 49 App.:2210(a) for clarity and to eliminate unnecessary words. The words ''has received or will receive'' are substituted for ''before, on, or after December 30, 1987'' and ''before, on, or after December 31, 1987'' because of the restatement. In clauses (A)(ii) and (B)(ii), the words ''or right'' and ''only'' are omitted as surplus. In clause (A)(iii), the words ''at the discretion of the Secretary'' in 49 App.:2210(a)(13)(C) are omitted as surplus. In clause (B)(iii), the words ''under this subchapter'' are substituted for ''at that airport or within the national airport system'' for clarity and to eliminate unnecessary words.

Subsection (c)(3) is added for clarity.

In subsection (d), the words ''may approve an application under this subchapter for an airport development project grant . . . only if'' are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2204(b)(2)) and ''No obligation shall be incurred by the Secretary for airport development . . . unless'' in 49 App.:2204(b) for clarity and to eliminate unnecessary words.

In subsection (e)(1), the words ''may approve a project grant application under this subchapter for an airport development project only if'' are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(17)) and ''As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter . . . shall'' for clarity and to eliminate unnecessary words. The words ''food, beverages, printed materials, or other'' and ''ground transportation, baggage carts, automobile rentals, or other'' are omitted as surplus.

In subsection (e)(2)–(5), the words ''disadvantaged business enterprise'' are substituted for ''DBE'' for clarity.

In subsection (e)(4), the words ''(as defined by the Secretary by regulation)'' and ''(as defined under section 2204(d)(2)(B) of this title)'' are omitted as unnecessary because of paragraph (1) of this subsection.

In subsection (f)(2)(A), the words ''at the discretion of the Secretary'' are omitted as surplus. The words ''at primary airports and reliever airports'' are omitted as surplus because 49 App.:2206(c)(2), restated in section 47115(c) of the revised title, involves only primary and reliever airports.

In subsection (g)(1)(A), the words ''consistent with the terms of this chapter'' are omitted as surplus.

In subsection (g)(1)(B), the words ''Among other steps to insure such compliance'' and ''on behalf of the United States'' are omitted as surplus.

In subsection (g)(2), the words ''by or . . . the authority of'' are omitted as surplus.

In subsection (h), before clause (1), the words ''proposes to'' are omitted as surplus. The word ''subchapter'' is substituted for ''Act'' in section 511(f) of the Airport and Airway Improvement Act of 1982, as added by section 109(k) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Public Law 100–223, 101 Stat. 1502), to correct a mistake.

In subsection (i), the words ''a property interest in a land or water area or a building that the Secretary of Transportation uses to construct a facility'' are substituted for ''any area of land or water, or estate therein, or rights in buildings of the sponsor and constructs space or facilities thereon'' for consistency in this section.

In subsection (j)(2), the words ''the limitation on the use of revenues generated by airports contained in'', ''located'', ''of funds'', and ''(including revenues generated by such airports from other sources, unrestricted cash on hand, and Federal funds made available under this chapter for expenditure at such airports)'' are omitted as surplus.

In subsection (j)(3)(A), the words ''amount that is greater than 150 percent as determined'' are substituted for ''amount of the excess determined'' for clarity.

In subsection (j)(3)(B), the words ''in the aggregate'' are omitted as surplus.

In subsection (j)(4), the word ''imposed'' is substituted for ''levied'' for consistency in the revised title and with other titles of the Code. The words ''for the use of airport facilities'' and ''a percentage which is'' are omitted as surplus. The words ''Secretary of Labor'' are substituted for ''Bureau of Labor Statistics of the Department of Labor'' because of 29:551 and 557.

In subsection (j)(5), the words ''from fee increases'' and ''for approval'' are omitted as surplus.

REFERENCES IN TEXT

The Federal Airport Act, referred to in subsecs. (a)(13)(B) and (i), is act May 13, 1946, ch. 251, 60 Stat. 170, as amended, which was classified to chapter 14 (§1101 et seq.) of former Title 49, Transportation, prior to repeal by Pub. L. 91–258, title I, §52(a), May 21, 1970, 84 Stat. 235.

The Airport and Airway Development Act of 1970, referred to in subsecs. (a)(13)(B) and (i), is title I of Pub. L. 91–258, May 21, 1970, 84 Stat. 219, as amended, which was classified principally to chapter 25 (§1701 et seq.) of former Title 49, Transportation. Sections 1 through 30 of title I of Pub. L. 91–258, which enacted sections 1701

to 1703, 1711 to 1713, and 1714 to 1730 of former Title 49, and a provision set out as a note under section 1701 of former Title 49, were repealed by Pub. L. 97–248, title V, § 523(a), Sept. 3, 1982, 96 Stat. 695. Sections 31, 51, 52(a), (b)(4), (6), (c), (d), and 53 of title I of Pub. L. 91–258 were repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act tot he Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a)(17), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Title IX of the Act is classified generally to subchapter VI (§ 541 et seq.) of chapter 10 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

Section 3(p) of the Small Business Act, referred to in subsec. (e)(1), (4)(B), (6), is classified to section 632(p) of Title 15, Commerce and Trade.

Section 111(b) of the Federal Aviation Administration Authorization Act of 1994, referred to in subsec. (k), is section 111(b) of Pub. L. 103–305, which is set out below.

AMENDMENTS

1997—Subsec. (e)(1). Pub. L. 105–135, § 604(h)(1)(A), inserted before period at end ''or qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act)''.

Subsec. (e)(4)(B). Pub. L. 105–135, § 604(h)(1)(B), which directed the amendment of subpar. (B) by inserting before the period ''or as a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act)'', was executed by inserting the material before period at end of last sentence to reflect the probable intent of Congress.

Subsec. (e)(6). Pub. L. 105–135, § 604(h)(1)(C), inserted ''or a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act)'' after ''disadvantaged individual''.

1996—Subsec. (a)(20). Pub. L. 104–264, § 143, added par. (20).

Subsec. (k). Pub. L. 104–287, § 5(9), substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

Subsec. (*l*)(1). Pub. L. 104–287, § 5(80), substituted ''August 23, 1994'' for ''the date of the enactment of this subsection''.

Subsec. (*l*)(5). Pub. L. 104–264, § 805(b)(2), added par. (5).

Subsecs. (m) to (p). Pub. L. 104–264, § 805(a), added subsecs. (m) to (p).

1994—Subsec. (a)(15). Pub. L. 103–305, § 111(a)(1), inserted before semicolon at end ''and make such reports available to the public''.

Subsec. (a)(19). Pub. L. 103–305, § 111(a)(2)–(4), added par. (19).

Subsec. (k). Pub. L. 103–305, § 111(c), added subsec. (k).

Subsec. (*l*). Pub. L. 103–305, § 112(a), added subsec. (*l*).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–135 effective Oct. 1, 1997, see section 3 of Pub. L. 105–135, set out as a note under section 631 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

DIVERSION OF AIRPORT REVENUES FOR CLAIMS RELATED TO CERTAIN CEDED LANDS

Pub. L. 105–66, title III, § 340, Oct. 27, 1997, 111 Stat. 1448, provided that:

''(a) FINDINGS.—The Congress finds that—

''(1) Congress has the authority under article I, section 8 of the Constitution to regulate the air commerce of the United States;

''(2) section 47107 of title 49, United States Code, prohibits the diversion of certain revenue generated by a public airport as a condition of receiving a project grant;

''(3) a grant recipient that uses airport revenues for purposes that are not airport-related in a manner inconsistent with chapter 471 of title 49, United States Code, illegally diverts airport revenues;

''(4) illegal diversion of airport revenues undermines the interest of the United States in promoting a strong national air transportation system;

''(5) the policy of the United States that airports should be as self-sustaining as possible and that revenues generated at airports should not be diverted from airport purposes was stated by Congress in 1982 and reaffirmed and strengthened in 1987, 1994, and 1996;

''(6) certain airports are constructed on lands that may have belonged, at one time, to Native Americans, Native Hawaiians, or Alaska Natives;

''(7) contrary to the prohibition against diverting airport revenues from airport purposes under section 47107 of title 49, United States Code, certain payments from airport revenues may have been made for the betterment of Native Americans, Native Hawaiians, or Alaska Natives based upon the claims related to lands ceded to the United States;

''(8) Federal law prohibits diversions of airport revenues obtained from any source whatsoever to occur in the future whether related to claims for periods of time prior to or after the date of enactment of this Act [Oct. 27, 1997]; and

''(9) because of the special circumstances surrounding such past diversions of airport revenues for the betterment of Native Americans, Native Hawaiians, or Alaska Natives, it is in the national interest that amounts from airport revenues previously received by any entity for the betterment of Native Americans, Native Hawaiians, or Alaska Natives, as specified in subsection (b) of this section, should not be subject to repayment.

''(b) TERMINATION OF REPAYMENT RESPONSIBILITY.—Notwithstanding the provisions of [section] 47107 of title 49, United States Code, or any other provision of law, monies paid for claims related to ceded lands and diverted from airport revenues and received prior to April 1, 1996, by any entity for the betterment of Native Americans, Native Hawaiians, or Alaska Natives, shall not be subject to repayment.

''(c) PROHIBITION ON FURTHER DIVERSION.—There shall be no further payment of airport revenues for claims related to ceded lands, whether characterized as operating expenses, rent, or otherwise, and whether related to claims for periods of time prior to or after the date of enactment of this Act [Oct. 27, 1997].

''(d) CLARIFICATION.—Nothing in this Act [see Tables for classification] shall be construed to affect any existing Federal statutes, enactments, or trust obligations created thereunder, or any statute of the several States that define the obligations of such States to Native Americans, Native Hawaiians, or Alaska Natives in connection with ceded lands, except to make clear that airport revenues may not be used to satisfy such obligations.''

FINDINGS AND PURPOSE

Section 802 of title VIII of Pub. L. 104–264 provided that:

''(a) IN GENERAL.—Congress finds that—

''(1) section 47107 of title 49, United States Code, prohibits the diversion of certain revenue generated by a public airport as a condition of receiving a project grant;

''(2) a grant recipient that uses airport revenue for purposes that are not airport related in a manner inconsistent with chapter 471 of title 49, United States Code, illegally diverts airport revenues;

''(3) any diversion of airport revenues in violation of the condition referred to in paragraph (1) undermines the interest of the United States in promoting a strong national air transportation system that is responsive to the needs of airport users;

''(4) the Secretary and the Administrator have not enforced airport revenue diversion rules adequately and must have additional regulatory tools to increase enforcement efforts; and

''(5) sponsors who have been found to have illegally diverted airport revenues—

''(A) have not reimbursed or made restitution to airports in a timely manner; and

''(B) must be encouraged to do so.

''(b) PURPOSE.—The purpose of this title [see Short Title of 1996 Amendment note set out under section 40101 of this title] is to ensure that airport users are not burdened with hidden taxation for unrelated municipal services and activities by—

''(1) eliminating the ability of any State or political subdivision thereof that is a recipient of a project grant to divert airport revenues for purposes that are not related to an airport, in violation of section 47107 of title 49, United States Code;

''(2) imposing financial reporting requirements that are designed to identify instances of illegal diversions referred to in paragraph (1);

''(3) establishing a statute of limitations for airport revenue diversion actions;

''(4) clarifying limitations on revenue diversion that are permitted under chapter 471 of title 49, United States Code; and

''(5) establishing clear penalties and enforcement mechanisms for identifying and prosecuting airport revenue diversion.''

DEFINITIONS

Section 803 of title VIII of Pub. L. 104–264 provided that: ''For purposes of this title [see Short Title of 1996 Amendment note set out under section 40101 of this title], the following definitions apply:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

''(2) AIRPORT.—The term 'airport' has the meaning provided that term in section 47102(2) of title 49, United States Code.

''(3) PROJECT GRANT.—The term 'project grant' has the meaning provided that term in section 47102(14) of title 49, United States Code.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(5) SPONSOR.—The term 'sponsor' has the meaning provided that term in section 47102(19) of title 49, United States Code.''

REVISION OF POLICIES AND PROCEDURES; DEADLINES

Section 805(b)(1) of title VIII of Pub. L. 104–264 provided that: ''Not later than 90 days after the date of the enactment of this Act [Oct. 9, 1996], the Secretary, acting through the Administrator, shall revise the policies and procedures established under section 47107(*l*) of title 49, United States Code, to take into account the amendments made to that section by this title.''

FORMAT FOR REPORTING

Section 111(b) of Pub. L. 103–305 provided that: ''Within 180 days after the date of the enactment of this Act [Aug. 23, 1994], the Secretary [of Transportation] shall prescribe a uniform simplified format for reporting that is applicable to airports. Such format shall be designed to enable the public to understand readily how funds are collected and spent at airports, and to provide sufficient information relating to total revenues, operating expenditures, capital expenditures, debt service payments, contributions to restricted funds, accounts, or reserves required by financing agreements or covenants or airport lease or use agreements or covenants. Such format shall require each commercial service airport to report the amount of any revenue surplus, the amount of concession-generated revenue, and other information as required by the Secretary.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46301, 47101, 47111, 47119, 47134, 49104 of this title; title 26 section 9502.

§ 47108. Project grant agreements

(a) OFFER AND ACCEPTANCE.—On approving a project grant application under this subchapter, the Secretary of Transportation shall offer the sponsor a grant to pay the United States Government's share of the project costs allowable under section 47110 of this title. The Secretary may impose terms on the offer that the Secretary considers necessary to carry out this subchapter and regulations prescribed under this subchapter. An offer shall state the obligations to be assumed by the sponsor and the maximum amount the Government will pay for the project from the amounts authorized under chapter 481 of this title (except sections 48102(e), 48106, 48107, and 48110). At the request of the sponsor, an offer of a grant for a project that will not be completed in one fiscal year shall provide for the obligation of amounts apportioned or to be apportioned to a sponsor under section 47114(c) of this title for the fiscal years necessary to pay the Government's share of the cost of the project. An offer that is accepted in writing by the sponsor is an agreement binding on the Government and the sponsor. The Government may pay or be obligated to pay a project cost only after a grant agreement for the project is signed.

(b) INCREASING GOVERNMENT'S SHARE UNDER THIS SUBCHAPTER OR CHAPTER 475.—(1) When an offer has been accepted in writing, the amount stated in the offer as the maximum amount the Government will pay may be increased only as provided in paragraphs (2) and (3) of this subsection.

(2)(A) For a project receiving assistance under a grant approved under the Airport and Airway Improvement Act of 1982 before October 1, 1987, the amount may be increased by not more than—

(i) 10 percent for an airport development project, except a project for acquiring an interest in land; and

(ii) 50 percent of the total increase in allowable project costs attributable to acquiring an interest in land, based on current creditable appraisals.

(B) An increase under subparagraph (A) of this paragraph may be paid only from amounts the Government recovers from other grants made under this subchapter.

(3) For a project receiving assistance under a grant approved under the Act, this subchapter, or chapter 475 of this title after September 30, 1987, the amount may be increased—

(A) for an airport development project, by not more than 15 percent; and

(B) for a grant after September 30, 1992, to acquire an interest in land for an airport (except a primary airport), by not more than the greater of the following, based on current creditable appraisals or a court award in a condemnation proceeding:

(i) 15 percent; or

(ii) 25 percent of the total increase in allowable project costs attributable to acquiring an interest in land.

(c) INCREASING GOVERNMENT'S SHARE UNDER AIRPORT AND AIRWAY DEVELOPMENT ACT OF 1970.—For a project receiving assistance under a grant made under the Airport and Airway Development Act of 1970, the maximum amount the Government will pay may be increased by not more than 10 percent. An increase under this subsection may be paid only from amounts the Government recovers from other grants made under the Act.

(d) CHANGING WORKSCOPE.—With the consent of the sponsor, the Secretary may amend a grant agreement made under this subchapter to change the workscope of a project financed under the grant if the amendment does not result in an increase in the maximum amount the Government may pay under subsection (b) of this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1262.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47108(a)	49 App.:2211(a).	Sept. 3, 1982, Pub. L. 97–248, §512(a), 96 Stat. 688; Dec. 30, 1987, Pub. L. 100–223, §§106(b)(4), 110(c), 101 Stat. 1498, 1502.
47108(b)	49 App.:2211(b).	Sept. 3, 1982, Pub. L. 97–248, §512(b), 96 Stat. 688; restated Dec. 30, 1987, Pub. L. 100–223, §110(a), 101 Stat. 1502; Oct. 31, 1992, Pub. L. 102–581, §109, 106 Stat. 4879.
47108(c)	49 App.:2211(c).	
47108(d)	49 App.:2211(d).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §512(d); added Dec. 30, 1987, Pub. L. 100–223, §110(b), 101 Stat. 1502.

In subsection (a), the words ''on behalf of the United States'' are omitted as surplus. The words ''or sponsors'' are omitted because of 1:1. The words ''of the application'' are omitted as surplus. The words ''under section 47110 of this title'' are added for clarity. The words ''and conditions'' are omitted as being included in ''terms''. The words ''for the project'' are added for clarity. The words ''an offer of a grant for a project'' are substituted for ''In any case where the Secretary approves a project grant application for a project . . . the offer'' to eliminate unnecessary words. The words ''(including future fiscal years)'' are omitted as surplus. The words ''An offer that is accepted in writing by the sponsor is an agreement binding on the Government and the sponsor'' are substituted for ''If and when an offer is accepted in writing by the sponsor, the offer and acceptance shall comprise an agreement constituting an obligation of the United States and of the sponsor'' to eliminate unnecessary words. The words ''which have been or may be incurred'' are omitted as surplus.

In subsection (b)(1), the words ''by a sponsor'' are omitted as surplus. The words ''amount the Government will pay'' are substituted for ''obligation of the United States'' for clarity and consistency in this section.

In subsection (b)(2), the text of 49 App.:2211(b)(2) (last sentence) is restated to apply only to 49 App.:2211(b)(2) (1st sentence) to carry out the probable intent of Congress.

In subsection (b)(3)(B), the words ''for fiscal year 1993 and thereafter'' are omitted as unnecessary.

In subsection (c), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The words ''a project receiving assistance under'' are added for consistency.

In subsection (d), the word ''sponsor'' is substituted for ''grant recipient'' for clarity. The words ''amount the Government may pay'' are substituted for ''obligation of the United States authorized'' for clarity and consistency in this section.

REFERENCES IN TEXT

The Airport and Airway Improvement Act of 1982, referred to in subsec. (b)(2)(A), (3), is title V of Pub. L. 97–248, Sept. 3, 1982, 96 Stat. 671, as amended, which was classified principally to chapter 31 (§2201 et seq.) of former Title 49, Transportation, and was substantially repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as this subchapter.

The Airport and Airway Development Act of 1970, referred to in subsec. (c), is title I of Pub. L. 91–258, May 21, 1970, 84 Stat. 219, as amended, which was classified principally to chapter 25 (§1701 et seq.) of former Title 49. Sections 1 through 30 of title I of Pub. L. 91–258, which enacted sections 1701 to 1703, 1711 to 1713, and 1714 to 1730 of former Title 49, and a provision set out as a note under section 1701 of former Title 49, were repealed by Pub. L. 97–248, title V, §523(a), Sept. 3, 1982, 96 Stat. 695. Sections 31, 51, 52(a), (b)(4), (6), (c), (d), and 53 of title I of Pub. L. 91–258 were repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47104, 47110 of this title.

§ 47109. United States Government's share of project costs

(a) GENERAL.—Except as provided in subsection (b) of this section, the United States Government's share of allowable project costs is—

(1) 75 percent for a project at a primary airport having at least .25 percent of the total number of passenger boardings each year at all commercial service airports;

(2) 90 percent for a project at any other airport; and

(3) 40 percent for a project funded by the Administrator from the discretionary fund under section 47115 at an airport receiving an exemption under section 47134.

(b) INCREASED GOVERNMENT SHARE.—If, under subsection (a) of this section, the Government's share of allowable costs of a project in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the State, is less than the share applied on June 30, 1975, under section 17(b) of the Airport and Airway Development Act of 1970, the Government's share under subsection (a) of this section shall be increased by the lesser of—

(1) 25 percent;

(2) one-half of the percentage that the area of unappropriated and unreserved public lands and nontaxable Indian lands in the State is of the total area of the State; or

(3) the percentage necessary to increase the Government's share to the percentage that ap-

plied on June 30, 1975, under section 17(b) of the Act.

(c) SPECIAL RULE FOR PRIVATELY OWNED RELIEVER AIRPORTS.—If a privately owned reliever airport contributes any lands, easements, or rights-of-way to carry out a project under this subchapter, the current fair market value of such lands, easements, or rights-of-way shall be credited toward the non-Federal share of allowable project costs.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1264; Pub. L. 103–305, title I, § 114, Aug. 23, 1994, 108 Stat. 1579; Pub. L. 104–264, title I, § 149(c), title XII, § 1211, Oct. 9, 1996, 110 Stat. 3227, 3282.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47109(a)	49 App.:2209(a), (b).	Sept. 3, 1982, Pub. L. 97–248, § 510, 96 Stat. 685.
47109(b)	49 App.:2209(c).	
47109(c)	49 App.:2212(b)(5).	Sept. 3, 1982, Pub. L. 97–248, § 513(b)(5), 96 Stat. 691; Dec. 30, 1987, Pub. L. 100–223, § 111(a)(2), 101 Stat. 1503; Oct. 31, 1992, Pub. L. 102–581, § 110(b), 106 Stat. 4880.

In subsection (a), before clause (1), the words ''Except as provided in subsections (b) and (c) of this section'' are substituted for ''Except as otherwise provided in this chapter'' because subsections (b) and (c) restate the only parts of the chapter that provide exceptions to the general rule stated in subsection (a). In clauses (1) and (2), the words ''for a project'' are substituted for ''payable on account of any project contained in an approved project grant application submitted in accordance with this chapter'' in 49 App.:2209(a) and ''payable on account of any project contained in an approved project grant application'' in 49 App.:2209(b) for consistency in this chapter and to eliminate unnecessary words. A project cost is allowable only if it is incurred under a grant agreement made under the chapter, and a grant agreement may be made only if the project grant application is approved. In clause (1), the words ''number of passenger boardings'' are substituted for ''enplaning . . . of the . . . passengers enplaned'' because of the definition of ''passenger boardings'' in section 47102 of the revised title.

In subsection (b), the words ''If, under subsection (a) of this section, the Government's share of allowable costs . . . is less than the share applied on June 30, 1975, under section 17(b) of the Airport and Airway Development Act of 1970'' and ''(3) the percentage necessary to increase the Government's share to the percentage that applied on June 30, 1975, under section 17(b) of the Act'' are substituted for 49 App.:2209(c) (last sentence) for clarity. The words ''of the total of all lands therein'' are omitted as surplus.

In subsection (c), the words ''Notwithstanding subsections (a) and (b) of this section'' are substituted for ''Notwithstanding any other provision of this chapter'' because subsections (a) and (b) are the only other parts of the chapter that specify the United States Government's share of allowable project costs.

REFERENCES IN TEXT

Section 17(b) of the Airport and Airway Development Act of 1970, referred to in subsec. (b), is section 17(b) of Pub. L. 91–258, which was classified to section 1717(b) of former Title 49, Transportation, prior to repeal by Pub. L. 97–248, title V, § 523(a), Sept. 3, 1982, 96 Stat. 695.

AMENDMENTS

1996—Subsec. (a)(3). Pub. L. 104–264, § 149(c), added par. (3).

Subsec. (c). Pub. L. 104–264, § 1211, added subsec. (c).

1994—Subsec. (a). Pub. L. 103–305, § 114(1), substituted ''subsection (b)'' for ''subsections (b) and (c)''.

Subsec. (c). Pub. L. 103–305, § 114(2), struck out subsec. (c) which read as follows: ''(c) LIMITATION.—Notwithstanding subsections (a) and (b) of this section, the Government's share of project costs allowable under section 47110(d) of this title may not be more than 75 percent, except that the Government's share shall be 85 percent for a project at a commercial service airport that does not have more than .05 percent of the total annual passenger boardings in the United States.''

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47118, 47504, 47505 of this title.

§ 47110. Allowable project costs

(a) GENERAL AUTHORITY.—Except as provided in section 47111 of this title, the United States Government may pay or be obligated to pay, from amounts appropriated to carry out this subchapter, a cost incurred in carrying out a project under this subchapter only if the Secretary of Transportation decides the cost is allowable.

(b) ALLOWABLE COST STANDARDS.—A project cost is allowable—

(1) if the cost necessarily is incurred in carrying out the project in compliance with the grant agreement made for the project under this subchapter, including any cost a sponsor incurs related to an audit the Secretary requires under section 47121(b) or (d) of this title;

(2)(A) if the cost is incurred after the grant agreement is executed and is for airport development or airport planning carried out after the grant agreement is executed;

(B) if the cost is incurred after June 1, 1989, by the airport operator (regardless of when the grant agreement is executed) as part of a Government-approved noise compatability program (including project formulation costs) and is consistent with all applicable statutory and administrative requirements; or

(C) if the Government's share is paid only with amounts apportioned under paragraphs (1) and (2) of section 47114(c) of this title and if the cost is incurred—

(i) after September 30, 1996;

(ii) before a grant agreement is executed for the project; and

(iii) in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after the grant agreement had been executed;

(3) to the extent the cost is reasonable in amount;

(4) if the cost is not incurred in a project for airport development or airport planning for which other Government assistance has been granted; and

(5) if the total costs allowed for the project are not more than the amount stated in the grant agreement as the maximum the Government will pay (except as provided in section 47108(b) of this title).

(c) CERTAIN PRIOR COSTS AS ALLOWABLE COSTS.—The Secretary may decide that a project cost under subsection (b)(2)(A) of this section incurred after May 13, 1946, and before the date the grant agreement is executed is allowable if it is—

(1) necessarily incurred in formulating an airport development project, including costs incurred for field surveys, plans and specifications, property interests in land or airspace, and administration or other incidental items that would not have been incurred except for the project; or

(2) necessarily and directly incurred in developing the work scope of an airport planning project.

(d) TERMINAL DEVELOPMENT COSTS.—(1) The Secretary may decide that the cost of terminal development (including multi-modal terminal development) in a nonrevenue-producing public-use area of a commercial service airport is allowable for an airport development project at the airport—

(A) if the sponsor certifies that the airport, on the date the grant application is submitted to the Secretary, has—

(i) all the safety equipment required for certification of the airport under section 44706 of this title;

(ii) all the security equipment required by regulation; and

(iii) provided for access, to the area of the airport for passengers for boarding or exiting aircraft, to those passengers boarding or exiting aircraft, except air carrier aircraft;

(B) if the cost is directly related to moving passengers and baggage in air commerce within the airport, including vehicles for moving passengers between terminal facilities and between terminal facilities and aircraft; and

(C) under terms necessary to protect the interests of the Government.

(2) In making a decision under paragraph (1) of this subsection, the Secretary may approve as allowable costs the expenses of terminal development in a revenue-producing area and construction, reconstruction, repair, and improvement in a nonrevenue-producing parking lot if—

(A) the airport does not have more than .05 percent of the total annual passenger boardings in the United States; and

(B) the sponsor certifies that any needed airport development project affecting safety, security, or capacity will not be deferred because of the Secretary's approval.

(e) LETTERS OF INTENT.—(1) The Secretary may issue a letter of intent to the sponsor stating an intention to obligate from future budget authority an amount, not more than the Government's share of allowable project costs, for an airport development project (including costs of formulating the project) at a primary or reliever airport. The letter shall establish a schedule under which the Secretary will reimburse the sponsor for the Government's share of allowable project costs, as amounts become available, if the sponsor, after the Secretary issues the letter, carries out the project without receiving amounts under this subchapter.

(2) Paragraph (1) of this subsection applies to a project—

(A) about which the sponsor notifies the Secretary, before the project begins, of the sponsor's intent to carry out the project;

(B) that will comply with all statutory and administrative requirements that would apply to the project if it were carried out with amounts made available under this subchapter; and

(C) the Secretary decides will enhance system-wide airport capacity significantly and meets the criteria of section 47115(d) of this title.

(3) A letter of intent issued under paragraph (1) of this subsection is not an obligation of the Government under section 1501 of title 31, and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriation laws.

(4) The total estimated amount of future Government obligations covered by all outstanding letters of intent under paragraph (1) of this subsection may not be more than the amount authorized to carry out section 48103 of this title, less an amount reasonably estimated by the Secretary to be needed for grants under section 48103 that are not covered by a letter.

(5) A letter of intent issued under paragraph (1) of this subsection may not condition the obligation of amounts on the imposition of a passenger facility fee.

(6) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued.

(f) NONALLOWABLE COSTS.—Except as provided in subsection (d) of this section and section 47118(f) of this title, a cost is not an allowable airport development project cost if it is for—

(1) constructing a public parking facility for passenger automobiles;

(2) constructing, altering, or repairing part of an airport building, except to the extent the building will be used for facilities or activities directly related to the safety of individuals at the airport;

(3) decorative landscaping; or

(4) providing or installing sculpture or art works.

(g) USE OF DISCRETIONARY FUNDS.—A project for which cost reimbursement is provided under subsection (b)(2)(C) shall not receive priority consideration with respect to the use of discretionary funds made available under section 47115 of this title even if the amounts made available under paragraphs (1) and (2) of section 47114(c) are not sufficient to cover the Government's share of the cost of[1] project.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1264; Pub. L. 103–305, title I, § 115, Aug. 23, 1994, 108

[1] So in original. Probably should be ''of the''.

Stat. 1579; Pub. L. 103–429, §6(64), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–264, title I, §144, Oct. 9, 1996, 110 Stat. 3222.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47110(a)	49 App.:2212(a) (1st, last sentences).	Sept. 3, 1982, Pub. L. 97–248, §513(a), 96 Stat. 689; Aug. 4, 1989, Pub. L. 101–71, §3, 103 Stat. 181.
47110(b)	49 App.:2212(a) (2d sentence cls. (1), (2) (words before period), (3), (4)).	
47110(c)	49 App.:2212(a) (2d sentence cl. (2) (words after period)).	
47110(d)	49 App.:2212(b)(1), (6).	Sept. 3, 1982, Pub. L. 97–248, §513(b)(1), (6), 96 Stat. 691; Oct. 31, 1992, Pub. L. 102–581, §110(a), 106 Stat. 4879.
47110(e)	49 App.:2212(d).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §513(d); added Dec. 30, 1987, Pub. L. 100–223, §111(c), 101 Stat. 1503; Oct. 31, 1992, Pub. L. 102–581, §111, 106 Stat. 4880.
47110(f)	49 App.:2212(c).	Sept. 3, 1982, Pub. L. 97–248, §513(c), 96 Stat. 691; Dec. 30, 1987, Pub. L. 100–223, §111(b), 101 Stat. 1503; Oct. 31, 1992, Pub. L. 102–581, §107(c)(2), 106 Stat. 4879.

In subsection (a), the words ''for airport development or airport planning'' are omitted because of the definition of ''project'' in section 47102 of the revised title. The text of 49 App.:2212(a) (last sentence) is omitted as surplus because of 49:322(a).

In subsection (b)(1), the word ''approved'' is omitted as surplus because a project that was not approved could not be carried out in compliance with a grant agreement. The words ''in compliance with the grant agreement made for the project under this subchapter'' are substituted for ''in conformity with the terms and conditions of the grant agreement entered into in connection with the project'' to eliminate unnecessary words. The word ''sponsor'' is substituted for ''recipient'' for clarity.

In subsection (b)(2)(A), the words ''with respect to the project'' are omitted as unnecessary because ''the grant agreement'' means ''the grant agreement made for the project'' referred to in clause (1) of this subsection. The words ''under the project'' are omitted as surplus.

Subsection (b)(3) is substituted for ''in the opinion of the Secretary it is reasonable in amount, and if the Secretary determines that a project cost is unreasonable in amount, the Secretary may allow as an allowable project cost only so much of such project cost as the Secretary determines to be reasonable'' to eliminate unnecessary words.

Subsection (b)(5) is substituted for ''except that in no event may the Secretary allow project costs in excess of the definite amount stated in the grant agreement except to the extent authorized by section 2211(b) of this Appendix'' for consistency in this section.

In subsection (c), before clause (1), the words ''The Secretary may decide that a project cost . . . is allowable'' are substituted for ''However, the allowable costs of a project . . . may include . . . and the allowable costs of a project . . . may include'' for clarity and consistency in the revised title. The words ''incurred after May 13, 1946, and before the date the grant agreement is executed'' are substituted for ''which were incurred prior to the execution of the grant agreement and subsequent to May 13, 1946'' and ''which were incurred subsequent to May 13, 1946'' to eliminate unnecessary words. In clause (1), the words ''preparation of'', ''acquisition of'', ''by the sponsor specifically in connection with the accomplishment of the project for airport development'' are omitted as surplus. The words ''property interests in land or airspace'' are substituted for ''land or interests therein or easements through or other interests in airspace'' to eliminate unnecessary words.

In subsection (d)(1), before clause (A), the words ''The Secretary may decide that the cost . . . is allowable'' are substituted for ''the Secretary may approve, as allowable project costs'' and ''The Secretary shall approve project costs allowable under paragraph (1) of this subsection'' for clarity and consistency in this section. In clause (B), the words ''the boundaries of'' are omitted as surplus. In clause (C), the words ''and conditions'' are omitted as being included in ''terms''.

In subsection (d)(2), the words ''In making a decision under paragraph (1) of this subsection, the Secretary may approve as allowable costs'' are substituted for ''In the case of a commercial service airport . . . the Secretary may approve, under the preceding sentence as allowable project costs'' for consistency in this subsection.

In subsection (e)(1), the word ''sponsor'' is substituted for ''applicant'' for consistency. The words ''stipulated as'' and ''Subject to the provisions of this paragraph'' are omitted as surplus. The word ''reimburse'' is substituted for ''make payments under paragraph (2) of this subsection'' and ''pay'' for clarity. The words ''payable on account of such project in accordance with such letter of intent'' are omitted as surplus.

In subsection (e)(2), before clause (A), the text of 49 App.:2212(d)(1)(C) (last sentence) is omitted as obsolete.

In subsection (e)(3), the words ''A letter of intent issued'' are substituted for ''action'' for clarity. The word ''deemed'' before ''an obligation'' is omitted as surplus.

In subsection (f)(2), the words ''of a hangar or'' are omitted as being included in ''airport building''.

PUB. L. 103–429

The source credits for all of subsection (b) are included for clarity though only subsection (b)(2) is affected by the amendment. The source credits for 49:47110(c) are included to correct a mistake on p. 405 of H. R. Rept. 103–180 (103d Cong., 1st Sess., July 15, 1993).

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47110(b)	49 App.:2212(a) (2d sentence cls. (1), (2)(A) (words before period), (B), (3), (4)).	Sept. 3, 1982, Pub. L. 97–248, §513(a) (2d sentence), as amended May 26, 1994, Pub. L. 103–260, §106, 108 Stat. 699.
47110(c)	49 App.:2212(a) (2d sentence cl. (2)(A) (words after period).	

In subsection (b)(2)(C)(ii), the words ''before the cost is incurred'' are added for clarity.

AMENDMENTS

1996—Subsec. (b)(2)(C). Pub. L. 104–264, §144(a), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''if the Government's share is paid only with amounts apportioned under section 47114(c)(1)(A) and (2) of this title and if the cost is incurred—

''(i) during the fiscal year ending September 30, 1994;

''(ii) before a grant agreement is executed for the project but according to an airport layout plan the Secretary approves before the cost is incurred and all applicable statutory and administrative requirements that would apply to the project if the agreement had been executed; and

''(iii) for work related to a project for which a grant agreement previously was executed during the fiscal year ending September 30, 1994;''.

Subsec. (g). Pub. L. 104–264, §144(b), added subsec. (g).

1994—Subsec. (b)(2). Pub. L. 103–429 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''if the cost is incurred—

''(A) after the grant agreement is executed and is for airport development or airport planning carried out after the grant agreement is executed; or

''(B) after June 1, 1989, by the airport operator (regardless of when the grant agreement is executed) as part of a Government-approved noise compatibility program (including project formulation costs) and is consistent with all applicable statutory and administrative requirements;''.

Subsec. (e)(6). Pub. L. 103–305 added par. (6).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

LETTERS OF INTENT; DURATION OF AUTHORITY AND APPROVAL BY CONGRESS

Pub. L. 102–388, title III, § 320, Oct. 6, 1992, 106 Stat. 1546, provided that: ''The authority conferred by section 513(d) of the Airport and Airway Improvement Act of 1982, as amended [see subsec. (e) of this section], to issue letters of intent shall remain in effect subsequent to September 30, 1992. Letters of intent may be issued under such subsection to applicants determined to be qualified under such Act [substantially repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379, and reenacted by first section thereof as this subchapter]: *Provided*, That, notwithstanding any other provision of law, all such letters of intent in excess of $10,000,000 shall be submitted for approval to the Committees on Appropriations of the Senate and the House of Representatives; the Committee on Commerce, Science, and Transportation of the Senate; and the Committee on Public Works and Transportation [now Committee on Transportation and Infrastructure] of the House of Representatives.'' Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–143, title III, § 320, Oct. 28, 1991, 105 Stat. 942.

Pub. L. 101–516, title III, § 320, Nov. 5, 1990, 104 Stat. 2181.

Pub. L. 101–164 title III, § 326, Nov. 21, 1989, 103 Stat. 1096.

Pub. L. 100–457, title III, § 334, Sept. 30, 1988, 102 Stat. 2153.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40117, 47108, 47115, 47119 of this title.

§ 47111. Payments under project grant agreements

(a) GENERAL AUTHORITY.—After making a project grant agreement under this subchapter and consulting with the sponsor, the Secretary of Transportation may decide when and in what amounts payments under the agreement will be made. Payments totaling not more than 90 percent of the United States Government's share of the project's estimated allowable costs may be made before the project is completed if the sponsor certifies to the Secretary that the total amount expended from the advance payments at any time will not be more than the cost of the airport development work completed on the project at that time.

(b) RECOVERING PAYMENTS.—If the Secretary determines that the total amount of payments made under a grant agreement under this subchapter is more than the Government's share of the total allowable project costs, the Government may recover the excess amount. If the Secretary finds that a project for which an advance payment was made has not been completed within a reasonable time, the Government may recover any part of the advance payment for which the Government received no benefit.

(c) PAYMENT DEPOSITS.—A payment under a project grant agreement under this subchapter may be made only to an official or depository designated by the sponsor and authorized by law to receive public money.

(d) WITHHOLDING PAYMENTS.—(1) The Secretary may withhold a payment under a grant agreement under this subchapter for more than 180 days after the payment is due only if the Secretary—

(A) notifies the sponsor and provides an opportunity for a hearing; and

(B) finds that the sponsor has violated the agreement.

(2) The 180-day period may be extended by—

(A) agreement of the Secretary and the sponsor; or

(B) the hearing officer if the officer decides an extension is necessary because the sponsor did not follow the schedule the officer established.

(3) A person adversely affected by an order of the Secretary withholding a payment may apply for review of the order by filing a petition in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the project is located. The petition must be filed not later than 60 days after the order is served on the petitioner.

(e) ACTION ON GRANT ASSURANCES CONCERNING AIRPORT REVENUES.—If, after notice and opportunity for a hearing, the Secretary finds a violation of section 47107(b) of this title, as further defined by the Secretary under section 47107(*l*) of this title, or a violation of an assurance made under section 47107(b) of this title, and the Secretary has provided an opportunity for the airport sponsor to take corrective action to cure such violation, and such corrective action has not been taken within the period of time set by the Secretary, the Secretary shall withhold approval of any new grant application for funds under this chapter, or any proposed modification to an existing grant that would increase the amount of funds made available under this chapter to the airport sponsor, and withhold approval of any new application to impose a fee under section 40117 of this title. Such applications may thereafter be approved only upon a finding by the Secretary that such corrective action as the Secretary requires has been taken to address the violation and that the violation no longer exists.

(f) JUDICIAL ENFORCEMENT.—For any violation of this chapter or any grant assurance made under this chapter, the Secretary may apply to the district court of the United States for any district in which the violation occurred for enforcement. Such court shall have jurisdiction to enforce obedience thereto by a writ of injunction or other process, mandatory or otherwise, restraining any person from further violation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1266; Pub. L. 103–305, title I, § 112(b), Aug. 23, 1994, 108 Stat. 1575.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47111(a)	49 App.:2213 (1st, 2d sentences).	Sept. 3, 1982, Pub. L. 97–248, §514, 96 Stat. 691.
47111(b)	49 App.:2213 (3d, 4th sentences).	
47111(c)	49 App.:2213 (last sentence).	
47111(d)	49 App.:2218(b) (related to payment).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §519(b) (related to payment); added Dec. 30, 1987, Pub. L. 100–223, §112(2), 101 Stat. 1504.

In subsection (a), the words ''the terms of'' are omitted as surplus. The words ''totaling'' and ''total'' are substituted for ''in an aggregate amount'' and ''aggregate'' for consistency in the revised title. The words ''from time to time'' are omitted as surplus. The words ''before the project is completed'' are substituted for ''in advance of accomplishment of the airport project to which the payments relate'' for consistency in this chapter and to eliminate unnecessary words.

In subsection (b), the words ''at any time'' are omitted as surplus. The words ''project for which an advance payment was made has not been completed within a reasonable time'' are substituted for ''any airport development to which the advance payments relate has not been accomplished within a reasonable time or the project is not completed'' for clarity, for consistency in this chapter, and to eliminate unnecessary words.

In subsection (d)(1) and (2), the word ''sponsor'' is substituted for ''recipient'' and ''grant recipient'' for clarity.

In subsection (d)(2)(A), the word ''mutual'' is omitted as surplus.

In subsection (d)(3), the words ''adversely affected'' are substituted for ''aggrieved'' for consistency in the revised title and with other titles of the United States Code. The words ''the date on which'' are omitted as surplus.

AMENDMENTS

1994—Subsecs. (e), (f). Pub. L. 103–305 added subsecs. (e) and (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47110 of this title.

§ 47112. Carrying out airport development projects

(a) CONSTRUCTION WORK.—The Secretary of Transportation may inspect and approve construction work for an airport development project carried out under a grant agreement under this subchapter. The construction work must be carried out in compliance with regulations the Secretary prescribes. The regulations shall require the sponsor to make necessary cost and progress reports on the project. The regulations may amend or modify a contract related to the project only if the contract was made with actual notice of the regulations.

(b) PREVAILING WAGES.—A contract for more than $2,000 involving labor for an airport development project carried out under a grant agreement under this subchapter must require contractors to pay labor minimum wage rates as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a–5). The minimum rates must be included in the bids for the work and in the invitation for those bids.

(c) VETERANS' PREFERENCE.—(1) In this subsection—

(A) ''disabled veteran'' has the same meaning given that term in section 2108 of title 5.

(B) ''Vietnam-era veteran'' means an individual who served on active duty (as defined in section 101 of title 38) in the armed forces for more than 180 consecutive days, any part of which occurred after August 4, 1964, and before May 8, 1975, and who was separated from the armed forces under honorable conditions.

(2) A contract involving labor for carrying out an airport development project under a grant agreement under this subchapter must require that preference in the employment of labor (except in executive, administrative, and supervisory positions) be given to Vietnam-era veterans and disabled veterans when they are available and qualified for the employment.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1267.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47112(a)	49 App.:2214(a).	Sept. 3, 1982, Pub. L. 97–248, §515, 96 Stat. 691.
47112(b)	49 App.:2214(b).	
47112(c)	49 App.:2214(c).	

In this section, the words ''for an airport development project carried out under a grant agreement under this subchapter'' are substituted for ''on any project for airport development contained in an approved project grant application submitted in accordance with this chapter'' in 49 App.:2214(a), ''on projects for airport development approved under this chapter'' in 49 App.:2214(b), and ''under project grants for airport development approved under this chapter'' in 49 App.:2214(c) for clarity and consistency in this section. See H.R. Rept. No. 97–760, 97th Cong., 2d Sess., p. 715 (1982).

In subsection (a), the words ''or sponsors'' are omitted because of 1:1.

In subsection (b), the words ''must require contractors to pay labor minimum wage rates'' are substituted for ''shall contain provisions establishing minimum rates of wages . . . which contractors shall pay to skilled and unskilled labor'' to eliminate unnecessary words. The word ''proposals'' is omitted as included in ''bids''.

Subsection (c)(1)(A) is substituted for ''a disabled veteran is an individual described in section 2108(2) of title 5'' for consistency in the revised title and with other titles of the Code.

In subsection (c)(1)(B), the words ''after August 4, 1964, and before May 8, 1975'' are substituted for ''during the period beginning August 5, 1964, and ending May 7, 1975'' for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

In subsection (c)(2), the words ''must require that'' are substituted for ''shall contain such provisions as are necessary to insure that'', and the words ''when they are available and qualified for the employment'' are substituted for ''However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates'', to eliminate unnecessary words.

REFERENCES IN TEXT

Act of March 3, 1931, referred to in subsec. (b), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, known as the Davis-Bacon Act, which is classified generally to section 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47119 of this title.

§ 47113. Minority and disadvantaged business participation

(a) DEFINITIONS.—In this section—

(1) ''small business concern''—

(A) has the same meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632); but

(B) does not include a concern, or group of concerns controlled by the same socially and economically disadvantaged individual, that has average annual gross receipts over the prior 3 fiscal years of more than $16,015,000, as adjusted by the Secretary of Transportation for inflation;

(2) ''socially and economically disadvantaged individual'' has the same meaning given that term in section 8(d) of the Act (15 U.S.C. 637(d)) and relevant subcontracting regulations prescribed under section 8(d), except that women are presumed to be socially and economically disadvantaged; and

(3) the term ''qualified HUBZone small business concern'' has the meaning given that term in section 3(p) of the Small Business Act (15 U.S.C. 632(*o*)[1]).

(b) GENERAL REQUIREMENT.—Except to the extent the Secretary decides otherwise, at least 10 percent of amounts available in a fiscal year under section 48103 of this title shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals or qualified HUBZone small business concerns.

(c) UNIFORM CRITERIA.—The Secretary shall establish minimum uniform criteria for State governments and airport sponsors to use in certifying whether a small business concern qualifies under this section. The criteria shall include onsite visits, personal interviews, licenses, analyses of stock ownership and bonding capacity, listings of equipment and work completed, resumes of principal owners, financial capacity, and type of work preferred.

(d) SURVEYS AND LISTS.—Each State or airport sponsor annually shall survey and compile a list of small business concerns referred to in subsection (b) of this section and the location of each concern in the State.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1268; Pub. L. 103–429, § 6(65), Oct. 31, 1994, 108 Stat. 4386; Pub. L. 105–135, title VI, § 604(h)(2), Dec. 2, 1997, 111 Stat. 2635.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47113(a)	49 App.:2204(d)(2).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 505(d); added Dec. 30, 1987, Pub. L. 100–223, § 105(f), 101 Stat. 1493; Oct. 31, 1992, Pub. L. 102–581, § 117(c), 106 Stat. 4883.
47113(b)	49 App.:2204(d)(1).	
47113(c)	49 App.:2204(d)(4).	
47113(d)	49 App.:2204(d)(3).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

In subsection (a)(1)(B), the words ''or individuals'' are omitted because of 1:1.

In subsection (a)(2), the reference is to section 8(c) of the Act because 15:637(d) was redesignated as 15:637(c) by section 3 of the Women's Business Development Act of 1991 (Public Law 102–191, 105 Stat. 1591).

In subsection (b), the words ''beginning after September 30, 1987'' are omitted as obsolete.

PUB. L. 103–429

This amends 49:47113(a)(2) to correct erroneous cross-references.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–135, § 604(h)(2)(A), substituted semicolon for period at end of par. (1), substituted ''; and'' for period at end of par. (2), and added par. (3).

Subsec. (b). Pub. L. 105–135, § 604(h)(2)(B), inserted ''or qualified HUBZone small business concerns'' before period at end.

1994—Subsec. (a)(2). Pub. L. 103–429 substituted ''8(d)'' for ''8(c)'' in two places and ''637(d))'' for ''637(c))''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–135 effective Oct. 1, 1997, see section 3 of Pub. L. 105–135, set out as a note under section 631 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47107, 47119 of this title.

§ 47114. Apportionments

(a) DEFINITION.—In this section, ''amount subject to apportionment'' means the amount newly made available under section 48103 of this title for a fiscal year.

(b) APPORTIONMENT DATE.—On the first day of each fiscal year, the Secretary of Transportation shall apportion the amount subject to apportionment for that fiscal year as provided in this section.

(c) AMOUNTS APPORTIONED TO SPONSORS.—(1)(A) The Secretary shall apportion to the sponsor of each primary airport for each fiscal year an amount equal to—

(i) $7.80 for each of the first 50,000 passenger boardings at the airport during the prior calendar year;

(ii) $5.20 for each of the next 50,000 passenger boardings at the airport during the prior calendar year;

(iii) $2.60 for each of the next 400,000 passenger boardings at the airport during the prior calendar year;

(iv) $.65 for each of the next 500,000 passenger boardings at the airport during the prior calendar year; and

(v) $.50 for each additional passenger boarding at the airport during the prior calendar year.

[1] So in original. Probably should be ''632(p)''.

(B) Not less than $500,000 nor more than $22,000,000 may be apportioned under subparagraph (A) of this paragraph to an airport sponsor for a primary airport for each fiscal year.

(2) CARGO ONLY AIRPORTS.—

(A) APPORTIONMENT.—Subject to subparagraph (D), the Secretary shall apportion an amount equal to 2.5 percent of the amount subject to apportionment each fiscal year to the sponsors of airports served by aircraft providing air transportation of only cargo with a total annual landed weight of more than 100,000,000 pounds.

(B) SUBALLOCATION FORMULA.—Any funds apportioned under subparagraph (A) to sponsors of airports described in subparagraph (A) shall be allocated among those airports in the proportion that the total annual landed weight of aircraft described in subparagraph (A) landing at each of those airports bears to the total annual landed weight of those aircraft landing at all those airports.

(C) LIMITATION.—Not more than 8 percent of the amount apportioned under subparagraph (A) may be apportioned for any one airport.

(D) DISTRIBUTION TO OTHER AIRPORTS.—Before apportioning amounts to the sponsors of airports under subparagraph (A) for a fiscal year, the Secretary may set-aside a portion of such amounts for distribution to the sponsors of other airports, selected by the Secretary, that the Secretary finds will be served primarily by aircraft providing air transportation of only cargo.

(E) DETERMINATION OF LANDED WEIGHT.—Landed weight under this paragraph is the landed weight of aircraft landing at each airport described in subparagraph (A) during the prior calendar year.

(d) AMOUNTS APPORTIONED TO STATES.—(1) In this subsection—

(A) ''area'' includes land and water.

(B) ''population'' means the population stated in the latest decennial census of the United States.

(2) The Secretary shall apportion to the States 18.5 percent of the amount subject to apportionment for each fiscal year as follows:

(A) 0.66 percent of the apportioned amount to Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(B) except as provided in paragraph (3) of this subsection, 49.67 percent of the apportioned amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in clause (A) of this paragraph in the proportion that the population of each of those States bears to the total population of all of those States.

(C) except as provided in paragraph (3) of this subsection, 49.67 percent of the apportioned amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in clause (A) of this paragraph in the proportion that the area of each of those States bears to the total area of all of those States.

(3) An amount apportioned under paragraph (2) of this subsection for an airport in—

(A) Alaska may be made available by the Secretary for a public airport described in section 47117(e)(1)(C)(ii)[1] of this title to which section 15(a)(3)(A)(II) of the Airport and Airway Development Act of 1970 applied during the fiscal year that ended September 30, 1981; and

(B) Puerto Rico may be made available by the Secretary for a primary airport and an airport described in section 47117(e)(1)(C) of this title.

(e) ALTERNATIVE APPORTIONMENT FOR ALASKA.—(1) Instead of apportioning amounts for airports in Alaska under subsections (c) and (d) of this section, the Secretary may apportion amounts for those airports in the way in which amounts were apportioned in the fiscal year ending September 30, 1980, under section 15(a) of the Act. However, in apportioning amounts for a fiscal year under this subsection, the Secretary shall apportion—

(A) for each primary airport at least as much as would be apportioned for the airport under subsection (c)(1) of this section; and

(B) a total amount at least equal to the minimum amount required to be apportioned to airports in Alaska in the fiscal year ending September 30, 1980, under section 15(a)(3)(A) of the Act.

(2) This subsection does not prohibit the Secretary from making project grants for airports in Alaska from the discretionary fund under section 47115 of this title.

(3) Airports referred to in this subsection include those public airports that received scheduled service as of September 3, 1982, but were not apportioned amounts in the fiscal year ending September 30, 1980, under section 15(a) of the Act because the airports were not under the control of a State or local public agency.

(f) REDUCING APPORTIONMENTS.—An amount that would be apportioned under this section (except subsection (c)(2)) in a fiscal year to the sponsor of an airport having at least .25 percent of the total number of boardings each year in the United States and for which a fee is imposed in the fiscal year under section 40117 of this title shall be reduced by an amount equal to 50 percent of the projected revenues from the fee in the fiscal year but not by more than 50 percent of the amount that otherwise would be apportioned under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1268; Pub. L. 103–429, §6(66), Oct. 31, 1994, 108 Stat. 4386; Pub. L. 104–264, title I, §121, Oct. 9, 1996, 110 Stat. 3217.)

AMENDMENT OF SUBSECTIONS (c) AND (d)(2)

For termination of amendment by section 125 of Pub. L. 104–264, see Effective and Termination Dates of 1996 Amendment note below.

[1] See References in Text below.

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47114(a), (b)	49 App.:2206(a) (words before cl. (1)).	Sept. 3, 1982, Pub. L. 97–248, § 507(a)(1), (3), (b)(2), (4)–(5)(C), (E), (6), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97–424, § 426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100–223, § 106(a), 101 Stat. 1494, 1496.
47114(c) (1)(A).	49 App.:2206(a)(1).	
	49 App.:2206(e)(1).	Sept. 3, 1982, Pub. L. 97–248, § 507(e), (f), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97–424, § 426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100–223, § 106(a), 101 Stat. 1497; Nov. 5, 1990, Pub. L. 101–508, § 9112(b), 104 Stat. 1388–362.
47114(c) (1)(B).	49 App.:2206(b)(1).	Sept. 3, 1982, Pub. L. 97–248, § 507(a)(2), (b)(1), (3), (5)(F), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97–424, § 426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100–223, § 106(a), 101 Stat. 1494, 1496; Oct. 31, 1992, Pub. L. 102–581, § 106, 106 Stat. 4878.
47114(c)(2) ..	49 App.:2206(a)(2), (b)(4), (e)(2).	
47114(c)(3) ..	49 App.:2206(b)(2), (3).	
47114(d)(1) ..	49 App.:2206(f).	
47114(d)(2) ..	49 App.:2206(a)(3).	
47114(d)(3) ..	49 App.:2206(b)(6).	
47114(e)	49 App.:2206(b) (5)(A)–(C), (E), (F).	
47114(f)	49 App.:2206(b)(7).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 507(b)(7); added Nov. 5, 1990, Pub. L. 101–508, § 9111, 104 Stat. 1388–362.

In subsection (a), the word ''newly'' is substituted for ''and not previously apportioned'' for clarity. The words ''made available'' are substituted for ''authorized to be obligated'' for clarity and consistency.

In subsection (c)(1)(A), the words ''during the prior calendar year'' are substituted for 49 App.:2206(b) for clarity.

In subsection (c)(2)(A), the word ''cargo'' is substituted for ''property (including mail)'' for consistency in the revised title.

In subsection (c)(3), the words ''The total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 44 percent of the amount subject to apportionment for a fiscal year'' are substituted for 49 App.:2206(b)(2)(A) and (3)(A) for clarity and to eliminate unnecessary words. The words ''If this paragraph requires reduction of an amount that otherwise would be apportioned under this subsection'' are substituted for ''In any case in which apportionments in a fiscal year would be reduced by subparagraph (A)'' for clarity.

In subsection (d)(2)(A), the words ''the Commonwealth of'' are omitted as surplus.

In subsection (d)(2)(B) and (C), the words ''except as provided in paragraph (3) of this subsection'' are added, and the words ''49.5 percent of the apportioned amount'' are substituted for ''1/2 of the remaining 99 percent'', for clarity.

In subsection (d)(3), before clause (A), the words ''Notwithstanding subsection (a)(3)(B) of this section'' are omitted as surplus.

In subsection (e)(1), before clause (A), the words ''Instead of apportioning amounts for airports in Alaska under subsections (c) and (d) of this section'' are substituted for ''Notwithstanding any other provision of subsection (a) of this section'' for clarity.

In subsection (e)(2), the words ''be construed as'' are omitted as surplus.

In subsection (f), the words ''which, but for this paragraph, would be'' the first time they appear are omitted as surplus. The words ''but not by more than'' are substituted for ''The maximum reduction in an apportionment to a sponsor of an airport as a result of this paragraph in a fiscal year shall be'' to eliminate unnecessary words.

PUB. L. 103–429

Revision notes for 49:47114(c)(3)(A) are included to reflect changes made for clarity and to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1269).

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47114(c) (1)(B).	49 App.:2206(b)(1).	Sept. 3, 1982, Pub. L. 97–248, § 507(b)(1), as amended May 26, 1994, Pub. L. 103–260, § 103, 108 Stat. 698.
47114(c) (3)(B).	49 App.:2206(b)(3).	Sept. 3, 1982, Pub. L. 97–248, § 507(b)(3), as amended May 26, 1994, Pub. L. 103–260, § 102, 108 Stat. 698.

In subsection (c)(3)(A) and (B), the words ''If this subparagraph requires reduction of an amount that otherwise would be apportioned under this subsection'' are substituted for ''In any case in which apportionments in a fiscal year would be reduced by subparagraph (A)'' for clarity.

In subsection (c)(3)(A), the words ''Except as provided in subparagraph (B) of this paragraph'' are added for clarity. The words ''the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 49.5 percent of the amount subject to apportionment for a fiscal year'' are substituted for 49 App.:2206(b)(2)(A), as in effect on July 4, 1994, for clarity and to eliminate unnecessary words.

In subsection (c)(3)(B), the words ''the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 44 percent of the amount subject to apportionment for that fiscal year'' are substituted for 49 App.:2206(b)(3)(A), as in effect on July 4, 1994, for clarity and to eliminate unnecessary words.

REFERENCES IN TEXT

Section 47117(e)(1)(C), referred to in subsec. (d)(3)(A), was repealed by Pub. L. 104–264, title I, § 123(b)(2), Oct. 9, 1996, 110 Stat. 3219.

Section 15(a) of the Airport and Airway Development Act of 1970, referred to in subsecs. (d)(3)(A) and (e)(1), (3), is section 15(a) of Pub. L. 91–258, which was classified to section 1715(a) of former Title 49, Transportation, prior to repeal by Pub. L. 97–248, title V, § 523(a), Sept. 3, 1982, 96 Stat. 695.

AMENDMENTS

1996—Subsec. (c)(1)(A)(iv). Pub. L. 104–264, §§ 121(a)(1)(B), 125, temporarily substituted ''of the next 500,000 passenger boardings'' for ''additional passenger boarding''. See Effective and Termination Dates of 1996 Amendment note below.

Subsec. (c)(1)(A)(v). Pub. L. 104–264, §§ 121(a)(1)(A), (C), (D), 125, temporarily added cl. (v). See Effective and Termination Dates of 1996 Amendment note below.

Subsec. (c)(2). Pub. L. 104–264, §§ 121(a)(2)(A), 125, temporarily amended par. (2) generally. Prior to amendment, par. (2) read as follows:

''(2)(A) The Secretary shall apportion to the sponsors of airports served by aircraft providing air transportation of only cargo with a total annual landed weight of more than 100,000,000 pounds for each fiscal year an amount equal to 3.5 percent of the amount subject to apportionment each year, allocated among those airports in the proportion that the total annual landed weight of those aircraft landing at each of those airports bears to the total annual landed weight of those aircraft landing at all those airports. However, not more than 8 percent of the amount apportioned under this paragraph may be apportioned for any one airport.

''(B) Landed weight under subparagraph (A) of this paragraph is the landed weight of aircraft landing at

each of those airports and all those airports during the prior calendar year.'' See Effective and Termination Dates of 1996 Amendment note below.

Subsec. (c)(3). Pub. L. 104–264, §§121(a)(3), 125, temporarily struck out par. (3) which read as follows:

''(3)(A) Except as provided in subparagraph (B) of this paragraph, the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 49.5 percent of the amount subject to apportionment for a fiscal year. If this subparagraph requires reduction of an amount that otherwise would be apportioned under this subsection, the Secretary shall reduce proportionately the amount apportioned to each sponsor of an airport under paragraphs (1) and (2) until the 49.5 percent limit is achieved.

''(B) If a law limits the amount subject to apportionment to less than $1,900,000,000 for a fiscal year, the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 44 percent of the amount subject to apportionment for that fiscal year. If this subparagraph requires reduction of an amount that otherwise would be apportioned under this subsection, the Secretary shall reduce proportionately the amount apportioned to each sponsor of an airport under paragraphs (1) and (2) until the 44 percent limit is achieved.'' See Effective and Termination Dates of 1996 Amendment note below.

Subsec. (d)(2). Pub. L. 104–264, §§121(b)(1), 125, temporarily substituted ''18.5'' for ''12'' in introductory provisions. See Effective and Termination Dates of 1996 Amendment note below.

Subsec. (d)(2)(A). Pub. L. 104–264, §§121(b)(2), 125, temporarily substituted ''0.66'' for ''one''. See Effective and Termination Dates of 1996 Amendment note below.

Subsec. (d)(2)(B), (C). Pub. L. 104–264, §§121(b)(3), (4), 125, temporarily substituted ''49.67'' for ''49.5'' and ''excluding primary airports but including reliever and nonprimary commercial service airports,'' for ''except primary airports and airports described in section 47117(e)(1)(C) of this title,''. See Effective and Termination Dates of 1996 Amendment note below.

1994—Subsec. (c)(1)(B). Pub. L. 103–429, §6(66)(A), substituted ''$500,000'' for ''$400,000''.

Subsec. (c)(3). Pub. L. 103–429, §6(66)(B), designated existing provisions as subpar. (A), substituted ''Except as provided in subparagraph (B) of this paragraph, the'' for ''The'', ''49.5'' for ''44'' in two places, and ''If this subparagraph'' for ''If this paragraph'', and added subpar. (B).

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

Section 125 of title I of Pub. L. 104–264 provided that: ''The amendments made by this subtitle [subtitle B (§§121–125) of title I of Pub. L. 104–264, amending this section and sections 47115, 47117, and 47118 of this title] shall cease to be effective on September 30, 1998. On and after such date, sections 47114, 47115, 47117, and 47118 of title 49, United States Code, shall read as if such amendments had not been enacted.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 6(66)(B) of Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41742, 47104, 47105, 47106, 47107, 47108, 47110, 47115, 47116, 47117, 47119, 47132, 47134 of this title.

§ 47115. Discretionary fund

(a) EXISTENCE AND AMOUNTS IN FUND.—The Secretary of Transportation has a discretionary fund. The fund consists of—

(1) amounts subject to apportionment for a fiscal year that are not apportioned under section 47114(c)–(e) of this title; and

(2) 25 percent of amounts not apportioned under section 47114 of this title because of section 47114(f).

(b) AVAILABILITY OF AMOUNTS.—Subject to subsection (c) of this section and section 47117(e) of this title, the fund is available for making grants for any purpose for which amounts are made available under section 48103 of this title that the Secretary considers most appropriate to carry out this subchapter. However, 50 percent of amounts not apportioned under section 47114 of this title because of section 47114(f) and added to the fund is available for making grants for projects at small hub airports (as defined in section 41731 of this title).

(c) MINIMUM PERCENTAGE FOR PRIMARY AND RELIEVER AIRPORTS.—At least 75 percent of the amount in the fund and distributed by the Secretary in a fiscal year shall be used for making grants—

(1) to preserve and enhance capacity, safety, and security at primary and reliever airports; and

(2) to carry out airport noise compatibility planning and programs at primary and reliever airports.

(d) CONSIDERATIONS.—In selecting a project for a grant to preserve and enhance capacity as described in subsection (c)(1) of this section, the Secretary shall consider—

(1) the effect the project will have on the overall national air transportation system capacity;

(2) the project benefit and cost, including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to the reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;

(3) the financial commitment from non-United States Government sources to preserve or enhance airport capacity;

(4) the airport improvement priorities of the States, and regional offices of the Administration, to the extent such priorities are not in conflict with paragraphs (1) and (2);

(5) the projected growth in the number of passengers that will be using the airport at which the project will be carried out; and

(6) any increase in the number of passenger boardings in the preceding 12-month period at the airport at which the project will be carried out, with priority consideration to be given to projects at airports at which the number of passenger boardings increased by at least 20 percent as compared to the number of passenger boardings in the 12-month period preceding such period.

(e) WAIVING PERCENTAGE REQUIREMENT.—If the Secretary decides the Secretary cannot comply with the percentage requirement of subsection (c) of this section in a fiscal year because there are insufficient qualified grant applications to meet that percentage, the amount the Secretary determines will not be distributed as required by subsection (c) is available for obligation during the fiscal year without regard to the requirement.

(f) CONSIDERATION OF DIVERSION OF REVENUES IN AWARDING DISCRETIONARY GRANTS.—

(1) GENERAL RULE.—Subject to paragraph (2), in deciding whether or not to distribute funds to an airport from the discretionary funds established by subsection (a) of this section and section 47116 of this title, the Secretary shall consider as a factor militating against the distribution of such funds to the airport the fact that the airport is using revenues generated by the airport or by local taxes on aviation fuel for purposes other than capital or operating costs of the airport or the local airports system or other local facilities which are owned or operated by the owner or operator of the airport and directly and substantially related to the actual air transportation of passengers or property.

(2) REQUIRED FINDING.—Paragraph (1) shall apply only when the Secretary finds that the amount of revenues used by the airport for purposes other than capital or operating costs in the airport's fiscal year preceding the date of the application for discretionary funds exceeds the amount of such revenues in the airport's first fiscal year ending after August 23, 1994, adjusted by the Secretary for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(g) MINIMUM AMOUNT TO BE CREDITED.—

(1) GENERAL RULE.—In a fiscal year, there shall be credited to the fund, out of amounts made available under section 48103 of this title, an amount that is at least equal to the sum of—

(A) $148,000,000; plus

(B) the total amount required from the fund to carry out in the fiscal year letters of intent issued before January 1, 1996, under section 47110(e) of this title or the Airport and Airway Improvement Act of 1982.

The amount credited is exclusive of amounts that have been apportioned in a prior fiscal year under section 47114 of this title and that remain available for obligation.

(2) REDUCTION OF APPORTIONMENTS.—In a fiscal year in which the amount credited under subsection (a) is less than the minimum amount to be credited under paragraph (1), the total amount calculated under paragraph (3) shall be reduced by an amount that, when credited to the fund, together with the amount credited under subsection (a), equals such minimum amount.

(3) AMOUNT OF REDUCTION.—For a fiscal year, the total amount available to make a reduction to carry out paragraph (2) is the total of the amounts determined under sections 47114(c)(1)(A), 47114(c)(2), 47114(d), and 47117(e) of this title. Each amount shall be reduced by an equal percentage to achieve the reduction.

(4) SPECIAL RULE.—For a fiscal year in which the amount credited to the fund under this subsection exceeds $300,000,000, the Secretary shall allocate the amount of such excess as follows:

(A) ⅓ shall be made available to airports for which apportionments are made under section 47114(d) of this title.

(B) ⅓ shall be made available for airport noise compatibility planning under section 47505(a)(2) of this title and for carrying out noise compatibility programs under section 47504(c)(1) of this title.

(C) ⅓ shall be made available to current or former military airports for which grants may be made under section 47117(e)(1)(B) of this title.

(h) PRIORITY FOR LETTERS OF INTENT.—In making grants in a fiscal year with funds made available under this section, the Secretary shall fulfill intentions to obligate under section 47110(e).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1270; Pub. L. 103–305, title I, § 112(d), Aug. 23, 1994, 108 Stat. 1576; Pub. L. 103–429, § 6(67), Oct. 31, 1994, 108 Stat. 4386; Pub. L. 104–264, title I, §§ 122, 145, Oct. 9, 1996, 110 Stat. 3218, 3222; Pub. L. 104–287, § 5(81), Oct. 11, 1996, 110 Stat. 3397.)

AMENDMENT OF SUBSECTIONS (f) AND (g)

For termination of amendment by section 125 of Pub. L. 104–264, see Effective and Termination Dates of 1996 Amendments note below.

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47115(a)	49 App.:2206(c)(1) (1st, 2d sentences).	Sept. 3, 1982, Pub. L. 97–248, § 507(c), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97–424, § 426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100–223, § 106(a), 101 Stat. 1496; Nov. 5, 1990, Pub. L. 101–508, § 9112(a), 104 Stat. 1388–362.
47115(b)	49 App.:2206(c)(1) (3d, last sentences).	
47115(c)	49 App.:2206(c)(2).	
47115(d)	49 App.:2206(c)(3).	
47115(e)	49 App.:2206(c)(4).	

In subsection (a), before clause (1), the words ''The Secretary of Transportation has a discretionary fund'' are added for clarity. In clause (1), the words ''subject to apportionment for a fiscal year'' are substituted for ''which are made available for a fiscal year under section 2204 of this Appendix'' and ''which have not been previously apportioned by the Secretary'' for consistency with section 47114 of the revised title.

In subsection (c), before clause (1), the words ''Subject to section 2207(d) of this Appendix and paragraph (4) of this subsection'' and ''pursuant to paragraph (1) and distributed by the Secretary under this subsection in a fiscal year beginning after September 30, 1987'' are omitted as surplus.

In subsection (d), before clause (1), the words ''at airports'' are omitted as surplus. In clause (3), the words ''airport operator or other'' are omitted as surplus.

In subsection (e), the words ''submitted in compliance with this chapter'' and ''portion of'' are omitted as surplus.

PUB. L. 103–429

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47115(f)	49 App.:2206(c)(5).	Sept. 3, 1982, Pub. L. 97–248, § 507(c)(5), as added May 26, 1994, Pub. L. 103–260, § 104(a), 108 Stat. 698.
	49 App.:2206 (note).	May 26, 1994, Pub. L. 103–260, § 104(b), 108 Stat. 699.

In subsection (f), the text of section 104(b) of the Airport Improvement Program Temporary Extension Act of 1994 (Public Law 103–260, 108 Stat. 699) is omitted as executed.

PUB. L. 104–287, § 5(81)(A)

This sets out the date of enactment of 49:47115(f), as enacted by section 112(d) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1576).

PUB. L. 104–287, § 5(81)(B)

This redesignates 49:47115(f), as enacted by section 6(67) of the Act of October 31, 1994 (Public Law 103–429, 108 Stat. 4386), as 49:47115(g).

REFERENCES IN TEXT

The Airport and Airway Improvement Act of 1982, referred to in subsec. (g)(1)(B), is title V of Pub. L. 97–248, Sept. 3, 1982, 96 Stat. 671, as amended, which was classified principally to chapter 31 (§ 2201 et seq.) of former Title 49, Transportation, and was substantially repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as this subchapter.

AMENDMENTS

1996—Subsec. (d)(2). Pub. L. 104–264, § 145(a)(1), substituted '', including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to the reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;'' for ''; and''.

Subsec. (d)(4) to (6). Pub. L. 104–264, § 145(a)(2), (3), added pars. (4) to (6).

Subsec. (f). Pub. L. 104–287, § 5(81)(B), which directed that subsec. (f), as enacted by Pub. L. 103–429, be redesignated (g), could not be executed because of amendment by Pub. L. 104–264, § 122, which struck out that subsec. See below.

Pub. L. 104–264, §§ 122, 125, temporarily struck out subsec. (f), relating to minimum amount to be credited, which read as follows:

''(f) MINIMUM AMOUNT TO BE CREDITED.—(1) In a fiscal year, at least $325,000,000 of the amount made available under section 48103 of this title shall be credited to the fund. The amount credited is exclusive of amounts that have been apportioned in a prior fiscal year under section 47114 of this title and that remain available for obligation.

''(2) In a fiscal year in which the amount credited under subsection (a) of this section is less than $325,000,000, the total amount calculated under paragraph (3) of this subsection shall be reduced by an amount that, when credited to the fund, together with the amount credited under subsection (a), equals $325,000,000.

''(3) For a fiscal year, the total amount available to reduce to carry out paragraph (2) of this subsection is the total of the amounts determined under sections 47114(c)(1)(A) and (2) and (d) and 47117(e) of this title. Each amount shall be reduced by an equal percentage to achieve the reduction.'' See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (f)(2). Pub. L. 104–287, § 5(81)(A), substituted ''August 23, 1994'' for ''the date of the enactment of this subsection''.

Subsec. (g). Pub. L. 104–264, §§ 122, 125, temporarily added subsec. (g). See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (h). Pub. L. 104–264, § 145(b), added subsec. (h).

1994—Subsec. (f). Pub. L. 103–429 added subsec. (f) relating to minimum amount to be credited.

Pub. L. 103–305 added subsec. (f) relating to consideration of diversion of revenues in awarding discretionary grants.

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS

Amendment by section 5(81)(B) of Pub. L. 104–287 effective Sept. 30, 1998, see section 8(2) of Pub. L. 104–287, as amended, set out as a note under section 47117 of this title.

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

Amendment by section 122 of Pub. L. 104–264 to cease to be effective Sept. 30, 1998, and on and after such date this section to read as if such amendment had not been enacted, see section 125 of Pub. L. 104–264 set out as a note under section 47114 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47107, 47109, 47110, 47114, 47117, 47118, 47119 of this title.

§ 47116. Small airport fund

(a) EXISTENCE AND AMOUNTS IN FUND.—The Secretary of Transportation has a small airport fund. The fund consists of 75 percent of amounts not apportioned under section 47114 of this title because of section 47114(f).

(b) DISTRIBUTION OF AMOUNTS.—The Secretary may distribute amounts in the fund in each fiscal year for any purpose for which amounts are made available under section 48103 of this title as follows:

(1) one-third for grants to sponsors of public-use airports (except commercial service airports).

(2) two-thirds for grants to sponsors of each commercial service airport that each year has less than .05 percent of the total boardings in the United States in that year.

(c) AUTHORITY TO RECEIVE GRANT NOT DEPENDENT ON PARTICIPATION IN BLOCK GRANT PILOT PROGRAM.—An airport in a State participating in the State block grant pilot program under section 47128 of this title may receive a grant under this section to the same extent the airport may receive a grant if the State were not participating in the program.

(d) PRIORITY CONSIDERATION FOR CERTAIN PROJECTS.—In making grants to sponsors described in subsection (b)(2), the Secretary shall give priority consideration to multi-year projects for construction of new runways that the Secretary finds are cost beneficial and would increase capacity in a region of the United States.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1271; Pub. L. 104–264, title I, § 146, Oct. 9, 1996, 110 Stat. 3223.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47116(a)	49 App.:2206(d)(1) (words before ''to be distributed'').	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 507(d); added Nov. 5, 1990, Pub. L. 101–508, § 9112(b), 104 Stat. 1388–362.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47116(b)	49 App.:2206(d)(1) (words after ''small airport fund''), (2), (3).	
47116(c)	49 App.:2206(d)(4).	

In subsection (a), the words ''The Secretary of Transportation has a small airport fund'' are added for clarity.

In subsection (b), before clause (1), the words ''under this subsection'' are omitted as surplus. In clauses (1) and (2), the words ''used'' and ''making'' are omitted as surplus.

In subsection (c), the word ''pilot'' is added for consistency with section 47128 of the revised title.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–264 added subsec. (d).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47115 of this title.

§ 47117. Use of apportioned amounts

(a) GRANT PURPOSE.—Except as provided in this section, an amount apportioned under section 47114(c)(1) or (d)(2) of this title is available for making grants for any purpose for which amounts are made available under section 48103 of this title.

(b) PERIOD OF AVAILABILITY.—An amount apportioned under section 47114 of this title is available to be obligated for grants under the apportionment only during the fiscal year for which the amount was apportioned and the 2 fiscal years immediately after that year or the 3 fiscal years immediately following that year in the case of a primary airport that had less than .05 percent of the total boardings in the United States in the preceding calendar year. If the amount is not obligated under the apportionment within that time, it shall be added to the discretionary fund.

(c) PRIMARY AIRPORTS.—(1) An amount apportioned to a sponsor of a primary airport under section 47114(c)(1) of this title is available for grants for any public-use airport of the sponsor included in the national plan of integrated airport systems.

(2) A sponsor of a primary airport may make an agreement with the Secretary of Transportation waiving any part of the amount apportioned for the airport under section 47114(c)(1) of this title if the Secretary makes the waived amount available for a grant for another public-use airport in the same State or geographical area as the primary airport.

(d) STATE USE.—An amount apportioned to a State under—

(1) section 47114(d)(2)(A) of this title is available for grants for airports located in the State; and

(2) section 47114(d)(2)(B) or (C) of this title is available for grants for airports described in section 47114(d)(2)(B) or (C) and located in the State.

(e) SPECIAL APPORTIONMENT CATEGORIES.—(1) The Secretary shall use amounts available to the discretionary fund under section 47115 of this title for each fiscal year as follows:

(A) At least 31 percent for grants for airport noise compatibility planning under section 47505(a)(2) of this title and for carrying out noise compatibility programs under section 47504(c) of this title. The Secretary may count the amount of grants made for such planning and programs with funds apportioned under section 47114 in that fiscal year in determining whether or not such 31 percent requirement is being met in that fiscal year.

(B) at[1] least 4 percent for each of fiscal years 1997 and 1998 to sponsors of current or former military airports designated by the Secretary under section 47118(a) of this title for grants for developing current and former military airports to improve the capacity of the national air transportation system and to sponsors of noncommercial service airports for grants for operational and maintenance expenses at any such airport if the amount of such grants to the sponsor of the airport does not exceed $30,000 in that fiscal year, if the Secretary determines that the airport is adversely affected by the closure or realignment of a military base, and if the sponsor of the airport certifies that the airport would otherwise close if the airport does not receive the grant.

(2) If the Secretary decides that an amount required to be used for grants under paragraph (1) of this subsection cannot be used for a fiscal year because there are insufficient qualified grant applications, the amount the Secretary determines cannot be used is available during the fiscal year for grants for other airports or for other purposes for which amounts are authorized for grants under section 48103 of this title.

(f) LIMITATION FOR COMMERCIAL SERVICE AIRPORT IN ALASKA.—The Secretary may not make a grant for a commercial service airport in Alaska of more than 110 percent of the amount apportioned for the airport for a fiscal year under section 47114(e) of this title.

(g) DISCRETIONARY USE OF APPORTIONMENTS.—(1) Subject to paragraph (2) of this subsection, if the Secretary finds, based on the notices the Secretary receives under section 47105(f) of this title or otherwise, that an amount apportioned under section 47114 of this title will not be used for grants during a fiscal year, the Secretary may use an equal amount for grants during that fiscal year for any of the purposes for which amounts are authorized for grants under section 48103 of this title.

(2) The Secretary may make a grant under paragraph (1) of this subsection only if the Secretary decides that—

(A) the total amount used for grants for the fiscal year under section 48103 of this title will not be more than the amount made available under section 48103 for that fiscal year; and

[1] So in original. Probably should be capitalized.

(B) the amounts authorized for grants under section 48103 of this title for later fiscal years are sufficient for grants of the apportioned amounts that were not used for grants under the apportionment during the fiscal year and that remain available under subsection (b) of this section.

(h) LIMITING AUTHORITY OF SECRETARY.—The authority of the Secretary to make grants during a fiscal year from amounts that were apportioned for a prior fiscal year and remain available for approved airport development project grants under subsection (b) of this section may be impaired only by a law enacted after September 3, 1982, that expressly limits that authority.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1271; Pub. L. 103–305, title I, §116(a), Aug. 23, 1994, 108 Stat. 1579; Pub. L. 103–429, §6(68), Oct. 31, 1994, 108 Stat. 4387; Pub. L. 104–264, title I, §§123, 124(d), Oct. 9, 1996, 110 Stat. 3219, 3220; Pub. L. 104–287, §5(82), Oct. 11, 1996, 110 Stat. 3397; Pub. L. 105–102, §3(c)(1), (2), Nov. 20, 1997, 111 Stat. 2215.)

AMENDMENT OF SUBSECTIONS (b) AND (e)

For termination of amendment by section 125 of Pub. L. 104–264, see Effective and Termination Dates of 1996 Amendments notes below.

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47117(a)	49 App.:2207(b)(1) (related to purposes for which funds may be used).	Sept. 3, 1982, Pub. L. 97–248, §§506(e)(4), 508(b), 96 Stat. 679, 681.
	49 App.:2207(c) (1st sentence related to purposes for which funds are available).	Sept. 3, 1982, Pub. L. 97–248, §508(c), 96 Stat. 682; Dec. 30, 1987, Pub. L. 100–223, §106(b)(2)(C), 101 Stat. 1498.
47117(b)	49 App.:2207(a).	Sept. 3, 1982, Pub. L. 97–248, §508(a), 96 Stat. 681; Dec. 30, 1987, Pub. L. 100–223, §106(b)(2)(A), (B), 101 Stat. 1497.
47117(c)(1) ..	49 App.:2207(b)(1) (related to airports at which funds may be used).	
47117(c)(2) ..	49 App.:2207(b)(2).	
47117(d)	49 App.:2207(c) (1st sentence related to airports at which funds are available, last sentence).	
47117(e)	49 App.:2202(a)(11).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(11), 96 Stat. 673; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.
	49 App.:2207(d).	Sept. 3, 1982, Pub. L. 97–248, §508(d), 96 Stat. 682; Dec. 30, 1987, Pub. L. 100–223, §§106(b)(2)(D), 107, 101 Stat. 1498; Nov. 5, 1990, Pub. L. 101–508, §9109(b), 104 Stat. 1388–356; Oct. 31, 1992, Pub. L. 102–581, §§107(a), 108, 106 Stat. 4878, 4879.
47117(f)	49 App.:2206(b)(5)(D).	Sept. 3, 1982, Pub. L. 97–248, §507(b)(5)(D), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97–424, §426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100–223, §106(a), 101 Stat. 1496.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47117(g)	49 App.:2207(e)(1).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §508(e)(1); added Oct. 2, 1982, Pub. L. 97–276, §167, 96 Stat. 1204; Dec. 30, 1987, Pub. L. 100–223, §106(b)(2)(E), 101 Stat. 1498.
	49 App.:2207(e)(2).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §508(e)(2); added Oct. 2, 1982, Pub. L. 97–276, §167, 96 Stat. 1205.
47117(h)	49 App.:2205(e)(4).	

In subsection (b), the words ''for grants'' are added, and the word ''apportioned'' is substituted for ''first authorized to be obligated'', for clarity. The words ''established by section 2206(c) of this Appendix'' are omitted as surplus.

In subsection (c)(2), the word ''if'' is substituted for ''on the condition that'' to eliminate unnecessary words. The word ''in'' is substituted for ''which is a part of'' for clarity.

Subsection (d) is substituted for 49 App.:2207(c) (1st sentence related to airports at which funds are available) for clarity. The text of 49 App.:2207(c) (last sentence) is omitted as surplus because of section 47105(a) of the revised title.

In subsection (e)(1), the words ''The Secretary shall use . . . (A) . . . for grants . . . (B) . . . for grants . . . (C) . . . for grants . . . (D) . . . for . . . grants . . . (E) . . . for grants'' are substituted for ''shall be distributed'' and ''shall be obligated'' for clarity and consistency in the revised title. Clause (C)(ii) is substituted for 49 App.:2207(d)(3)(B) and (C) to eliminate unnecessary words. In clause (E), the references to fiscal years 1991 and 1992 are omitted as obsolete.

In subsection (e)(2), the words ''for each fiscal year'' are omitted as surplus.

In subsection (e)(3), the words ''an amount required to be used for grants under paragraph (1) of this subsection cannot be used'' are substituted for ''he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), or (4) of this subsection'' for consistency. The words ''submitted in compliance with this chapter'' are omitted as surplus. The words ''cannot be used'' are substituted for ''will not be distributed'' for consistency. The words ''for which amounts are'' are added for clarity and consistency in this chapter.

Subsection (f) is substituted for 49 App.:2206(b)(5)(D) for clarity and consistency in the revised title.

In subsection (g)(1), the words ''and (3)'' are omitted because 49 App.:2207(e)(3) has expired. The words ''at his discretion'' are omitted as surplus.

In subsection (g)(2)(A), the words ''made available'' are substituted for ''authorized'' for clarity.

In subsection (h), the words ''to make grants'' are substituted for ''to obligate to an airport by grant agreement'' for consistency in the revised title and to eliminate unnecessary words. The words ''the unobligated balance of'' are omitted as surplus. The words ''limits that authority'' are substituted for ''limits the application of this paragraph'' for clarity. The words ''in addition to the amounts authorized for that fiscal year by section 2204 of this Appendix'' are omitted as surplus.

PUB. L. 103–429

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47117(e)	49 App.:2207(d).	Sept. 3, 1982, Pub. L. 97–248, §508(d), as amended May 26, 1994, Pub. L. 103–260, §105, 108 Stat. 699.

PUB. L. 104–287, §5(82)(A)

This amends 49:47117(e)(1)(B) because of the redesignation of 49:47504(c)(1)(C) and (D) as 49:47504(c)(2)(C) and

(D) by section 6(71)(C) of the Act of October 31, 1994 (Public Law 103–429, 108 Stat. 4387).

PUB. L. 104–287, § 5(82)(B)

This amends 49:47117(g)(1) because of the redesignation of 49:47105(e) as 49:47105(f) by section 107(a)(1) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1572).

AMENDMENTS

1997—Subsec. (e)(1)(A). Pub. L. 105–102, § 3(c)(1)(B), added Pub. L. 104–264, § 123(d). See 1996 Amendment note below.

Subsec. (e)(1)(B). Pub. L. 105–102, § 3(c)(2), repealed Pub. L. 104–264, § 124(d). See 1996 Amendment note below.

Pub. L. 105–102, § 3(c)(1)(A), amended Pub. L. 104–264, § 123(b)(6). See 1996 Amendment note below.

1996—Subsec. (b). Pub. L. 104–264, §§ 123(a), 125, temporarily inserted ''or the 3 fiscal years immediately following that year in the case of a primary airport that had less than .05 percent of the total boardings in the United States in the preceding calendar year'' before period at end of first sentence. See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (e)(1). Pub. L. 104–264, §§ 123(b)(1), 125, temporarily substituted ''available to the discretionary fund under section 47115'' for ''made available under section 48103'' in introductory provisions. See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (e)(1)(A). Pub. L. 104–264, § 123(d), as added by Pub. L. 105–102, § 3(c)(1)(B), temporarily substituted ''47504(c)'' for ''47504(c)(1)''. See Effective and Termination Dates of 1996 Amendments note below.

Pub. L. 104–264, §§ 123(b)(4), (5), 125, temporarily substituted ''At least 31'' for ''at least 12.5'' and inserted at end ''The Secretary may count the amount of grants made for such planning and programs with funds apportioned under section 47114 in that fiscal year in determining whether or not such 31 percent requirement is being met in that fiscal year.'' See Effective and Termination Dates of 1996 Amendments note below.

Pub. L. 104–264, §§ 123(b)(2), (3), 125, temporarily redesignated subpar. (B) as (A) and struck out former subpar. (A) which read as follows: ''at least 5 percent for grants for reliever airports.'' See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (e)(1)(B). Pub. L. 104–287, § 5(82)(A), which directed the amendment of subpar. (B) by substituting ''47504(c)'' for ''47504(c)(1)'', could not be executed because ''47504(c)(1)'' did not appear in text of subpar. (B) subsequent to amendment by Pub. L. 104–264. See below.

Pub. L. 104–264, § 124(d), which directed the temporary amendment of subpar. (B) by substituting ''1996, 1997, and 1998'' for ''and 1996,'', was repealed by Pub. L. 105–102, § 3(c)(2).

Pub. L. 104–264, § 123(b)(6), as amended by Pub. L. 105–102, § 3(c)(1)(A), and § 125, temporarily substituted ''at least 4 percent for each of fiscal years 1997 and 1998'' for ''at least 2.25 percent for the fiscal year ending September 30, 1993, and at least 2.5 percent for each of the fiscal years ending September 30, 1994, 1995, and 1996,''. See Effective and Termination Dates of 1996 Amendments note below.

Pub. L. 104–264, §§ 123(b)(3), (7), 125, temporarily redesignated subpar. (E) as (B) and inserted before period at end ''and to sponsors of noncommercial service airports for grants for operational and maintenance expenses at any such airport if the amount of such grants to the sponsor of the airport does not exceed $30,000 in that fiscal year, if the Secretary determines that the airport is adversely affected by the closure or realignment of a military base, and if the sponsor of the airport certifies that the airport would otherwise close if the airport does not receive the grant''. Former subpar. (B) temporarily redesignated (A). See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (e)(1)(C), (D). Pub. L. 104–264, §§ 123(b)(2), 125, temporarily struck out subpars. (C) and (D) which read as follows:

''(C) at least 1.5 percent for grants for—

''(i) nonprimary commercial service airports; and

''(ii) public airports (except commercial service airports) that were eligible for United States Government assistance from amounts apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(I) or (II) of the Act applied during the fiscal year that ended September 30, 1981.

''(D) at least .75 percent for integrated airport system planning grants to planning agencies designated by the Secretary and authorized by the laws of a State or political subdivision of a State to do planning for an area of the State or subdivision in which a grant under this chapter is to be used.'' See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (e)(1)(E). Pub. L. 104–264, §§ 123(b)(3), 125, temporarily redesignated subpar. (E) as (B). See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (e)(2), (3). Pub. L. 104–264, §§ 123(c), 125, temporarily redesignated par. (3) as (2) and struck out former par. (2) which read as follows: ''A grant from the amount apportioned under section 47114(e) of this title may not be included as part of the 1.5 percent required to be used for grants under paragraph (1)(C) of this subsection.'' See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (g)(1). Pub. L. 104–287, § 5(82)(B), substituted ''47105(f)'' for ''47105(e)''.

1994—Subsec. (e)(1)(A). Pub. L. 103–429, § 6(68)(A), substituted ''5 percent'' for ''10 percent''.

Subsec. (e)(1)(C). Pub. L. 103–429, § 6(68)(B), substituted ''1.5 percent'' for ''2.5 percent'' in introductory provisions.

Subsec. (e)(1)(D). Pub. L. 103–429, § 6(68)(C), substituted ''.75 percent'' for ''.5 percent''.

Subsec. (e)(1)(E). Pub. L. 103–305 substituted '', 1995, and 1996'' for '', and 1995''.

Subsec. (e)(2). Pub. L. 103–429, § 6(68)(D), substituted ''1.5 percent'' for ''2.5 percent''.

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)(1)(B) is effective Oct. 9, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS

Section 8(2) of Pub. L. 104–287, as amended by Pub. L. 105–102, § 3(d)(2)(B), Nov. 20, 1997, 111 Stat. 2215, provided that: ''The amendments made by section 5(81)(B), (82)(A), and (83)(A) [amending this section and sections 47115 and 47118 of this title] shall take effect on September 30, 1998.''

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

Amendment by Pub. L. 104–264 to cease to be effective Sept. 30, 1998, and on and after such date this section to read as if such amendment had not been enacted, see section 125 of Pub. L. 104–264 set out as a note under section 47114 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47104, 47114, 47115, 47118 of this title.

§ 47118. Designating current and former military airports

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall designate current or

former military airports for which grants may be made under section 47117(e)(1)(B) of this title. The maximum number of airports bearing such designation at any time is 12. The Secretary may only so designate an airport (other than an airport so designated before August 24, 1994) if—

(1) the airport is a former military installation closed or realigned under—

(A) section 2687 of title 10;

(B) section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note); or

(C) section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note); or

(2) the Secretary finds that such grants would—

(A) reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings; or

(B) enhance airport and air traffic control system capacity in a metropolitan area or reduce current and projected flight delays.

(b) SURVEY.—Not later than September 30, 1991, the Secretary shall complete a survey of current and former military airports to identify which airports have the greatest potential to improve the capacity of the national air transportation system. The survey shall identify the capital development needs of those airports to make them part of the system and which of those qualify for grants under section 47104 of this title.

(c) CONSIDERATIONS.—In carrying out this section, the Secretary shall consider only current or former military airports that, when at least partly converted to civilian commercial or reliever airports as part of the national air transportation system, will enhance airport and air traffic control system capacity in major metropolitan areas and reduce current and projected flight delays.

(d) GRANTS.—Grants under section 47117(e)(1)(E)[1] of this title may be made for an airport designated under subsection (a) of this section for the 5 fiscal years following the designation, and for subsequent 5-fiscal-year periods if the Secretary determines that the airport satisfies the designation criteria under subsection (a) at the beginning of each such subsequent 5-fiscal-year period.

(e) TERMINAL BUILDING FACILITIES.—Not more than $5,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for a fiscal year is available to the sponsor of a current or former military airport the Secretary designates under this section to construct, improve, or repair a terminal building facility, including terminal gates used for revenue passengers getting on or off aircraft. A gate constructed, improved, or repaired under this subsection—

(1) may not be leased for more than 10 years; and

(2) is not subject to majority in interest clauses.

(f) PARKING LOTS, FUEL FARMS, UTILITIES, AND HANGARS.—Not more than a total of $4,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for fiscal years beginning after September 30, 1992, is available to the sponsor of a current or former military airport the Secretary designates under this section to construct, improve, or repair airport surface parking lots, fuel farms, utilities, and hangars.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1273; Pub. L. 103–305, title I, §116(b)–(d), Aug. 23, 1994, 108 Stat. 1579; Pub. L. 104–264, title I, §124(a)–(c), Oct. 9, 1996, 110 Stat. 3219, 3220; Pub. L. 104–287, §5(83), Oct. 11, 1996, 110 Stat. 3397.)

AMENDMENT OF SUBSECTIONS (a), (d), AND (f)

For termination of amendment by section 125 of Pub. L. 104–264, see Effective and Termination Dates of 1996 Amendments note below.

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47118(a)	49 App.:2207(f)(1).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §508(f)(1); added Nov. 5, 1990, Pub. L. 101–508, §9109(c), 104 Stat. 1388–356; Oct. 31, 1992, Pub. L. 102–581, §107(b), 106 Stat. 4878.
47118(b)	49 App.:2207(f)(2).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §508(f)(2)–(5); added Nov. 5, 1990, Pub. L. 101–508, §9109(c), 104 Stat. 1388–356.
47118(c)	49 App.:2207(f)(3).	
47118(d)	49 App.:2207(f)(4).	
47118(e)	49 App.:2207(f)(5).	
47118(f)	49 App.:2207(f)(6).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §508(f)(6); added Oct. 31, 1992, Pub. L. 102–581, §107(c)(1), 106 Stat. 4878.

In subsection (d), the word ''Grants'' is substituted for ''to participate in the program'', and the word ''grants'' is substituted for ''participation in the program'', for clarity and consistency and to eliminate unnecessary words.

In subsection (e), before clause (1), the words ''at the discretion'' and ''with Federal funding'' are omitted as surplus.

PUB. L. 104–287, §5(83)(A)

This sets out the date of enactment of 49:47118(a) (last sentence).

PUB. L. 104–287, §5(83)(B)

This makes a clarifying amendment to 49:47118(e) because 49:47109(c) was struck by section 114(b) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1579).

REFERENCES IN TEXT

Section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act, referred to in subsec. (a)(1)(B), is section 201 of Pub. L. 100–526, which is set out in a note under section 2687 of Title 10, Armed Forces.

Section 2905 of the Defense Base Closure and Realignment Act of 1990, referred to in subsec. (a)(1)(C), is section 2905 of Pub. L. 101–510, which is set out in a note under section 2687 of Title 10.

Section 47117(e)(1)(E), referred to in subsec. (d), was redesignated section 47117(e)(1)(B) by Pub. L. 104–264, title I, §123(b)(3), Oct. 9, 1996, 110 Stat. 3219.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–287, §5(83)(A), which directed amendment of subsec. (a) by substituting ''be-

[1] See References in Text note below.

fore August 24, 1994'' for ''on or before the date of the enactment of this sentence'', could not be executed because the phrase to be amended did not appear subsequent to amendment by Pub. L. 104–264, §124(a). See below.

Pub. L. 104–264, §§124(a), 125, temporarily amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

''(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall designate not more than 15 current or former military airports for which grants may be made under section 47117(e)(1)(E) of this title. The Secretary may only designate an airport for such grants (other than an airport designated for such grants on or before the date of the enactment of this sentence) if the Secretary finds that grants under such section for projects at such airport would reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings.'' See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (d). Pub. L. 104–264, §§124(b), 125, temporarily substituted ''designation, and for subsequent 5-fiscal-year periods if the Secretary determines that the airport satisfies the designation criteria under subsection (a) at the beginning of each such subsequent 5-fiscal-year period.'' for ''designation.'' See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (e). Pub. L. 104–287, §5(83)(B), substituted ''Not'' for ''Notwithstanding section 47109(c) of this title, not''.

Subsec. (f). Pub. L. 104–264, §§124(c), 125, temporarily amended subsec. (f) by substituting ''Utilities, and Hangars'' for ''and Utilities'' in heading and ''for fiscal years beginning after September 30, 1992,'' for ''for the fiscal years ending September 30, 1993–1996,'' and ''utilities, and hangars'' for ''and utilities'' in text. See Effective and Termination Dates of 1996 Amendments note below.

1994—Subsec. (a). Pub. L. 103–305, §116(b), substituted ''15'' for ''12'' and inserted at end ''The Secretary may only designate an airport for such grants (other than an airport designated for such grants on or before the date of the enactment of this sentence) if the Secretary finds that grants under such section for projects at such airport would reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings.''

Subsec. (d). Pub. L. 103–305, §116(c), struck out at end ''If an airport does not have a level of passengers getting on aircraft during that 5-year period that qualifies the airport as a small hub airport (as defined on January 1, 1990) or reliever airport, the Secretary may redesignate the airport for grants for additional fiscal years that the Secretary decides.''

Subsec. (f). Pub. L. 103–305, §116(d), substituted ''September 30, 1993–1996'' for ''September 30, 1993–1995''.

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS

Amendment by section 5(83)(A) of Pub. L. 104–287 effective Sept. 30, 1998, see section 8(2) of Pub. L. 104–287, as amended, set out as a note under section 47117 of this title.

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

Amendment by Pub. L. 104–264 to cease to be effective Sept. 30, 1998, and on and after such date this section to read as if such amendment had not been enacted, see section 125 of Pub. L. 104–264 set out as a note under section 47114 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47110, 47117 of this title.

§ 47119. Terminal development costs

(a) REPAYING BORROWED MONEY.—An amount apportioned under section 47114 of this title and made available to the sponsor of an air carrier airport at which terminal development was carried out after June 30, 1970, and before July 12, 1976, or, in the case of a commercial service airport which annually had less than 0.05 percent of the total enplanements in the United States, between January 1, 1992, and October 31, 1992, is available to repay immediately money borrowed and used to pay the costs for terminal development at the airport, if those costs would be allowable project costs under section 47110(d) of this title if they had been incurred after September 3, 1982. An amount is available for a grant under this subsection—

(1) only if—

(A) the sponsor submits the certification required under section 47110(d) of this title;

(B) the Secretary of Transportation decides that using the amount to repay the borrowed money will not defer an airport development project outside the terminal area at that airport; and

(C) amounts available for airport development under this subchapter will not be used for additional terminal development projects at the airport for at least 3 years beginning on the date the grant is used to repay the borrowed money; and

(2) subject to the limitations in subsection (b)(1) and (2) of this section.

(b) AVAILABILITY OF AMOUNTS.—In a fiscal year, the Secretary may make available—

(1) to a sponsor of a primary airport, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(c)(1) of this title to pay project costs allowable under section 47110(d) of this title;

(2) on approval of the Secretary, not more than $200,000 of the amount that may be distributed for the fiscal year from the discretionary fund established under section 47115 of this title—

(A) to a sponsor of a nonprimary commercial service airport to pay project costs allowable under section 47110(d) of this title; and

(B) to a sponsor of a reliever airport for the types of project costs allowable under section 47110(d), including project costs allowable for a commercial service airport that each year does not have more than .05 percent of the total boardings in the United States;

(3) for use by a primary airport that each year does not have more than .05 percent of the total boardings in the United States, any part of amounts that may be distributed for the fiscal year from the discretionary fund and small airport fund to pay project costs allowable under section 47110(d) of this title; or

(4) not more than $25,000,000 to pay project costs allowable for the fiscal year under section 47110(d) of this title for projects at commercial service airports that were not eligible for assistance for terminal development during the fiscal year ending September 30, 1980,

under section 20(b) of the Airport and Airway Development Act of 1970.

(c) NONHUB AIRPORTS.—With respect to a project at a commercial service airport which annually has less than 0.05 percent of the total enplanements in the United States, the Secretary may approve the use of the amounts described in subsection (a) notwithstanding the requirements of sections 47107(a)(17), 47112, and 47113.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1274; Pub. L. 103–305, title I, § 117, Aug. 23, 1994, 108 Stat. 1579; Pub. L. 103–429, § 6(69), Oct. 31, 1994, 108 Stat. 4387.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47119(a)	49 App.:2212(b)(4).	Sept. 3, 1982, Pub. L. 97–248, § 513(b)(4), 96 Stat. 690; Dec. 30, 1987, Pub. L. 100–223, § 106(b)(5)(B), 101 Stat. 1498.
47119(b)	49 App.:2212(b)(2).	Sept. 3, 1982, Pub. L. 97–248, § 513(b)(2), 96 Stat. 690; Dec. 30, 1987, Pub. L. 100–223, §§ 106(b)(5)(A), 111(a)(1), 101 Stat. 1498, 1503.
	49 App.:2212(b)(3).	Sept. 3, 1982, Pub. L. 97–248, § 513(b)(3), 96 Stat. 690.

In subsection (a), before clause (1), the words ''(within the meaning of section 11(1) of the Airport and Airway Development Act of 1970 [49 App. U.S.C. 1711(1)] as in effect immediately before September 3, 1982)'' are omitted because of the definition of ''air carrier airport'' in section 47102 of the revised title. The words ''after June 30, 1970'' are substituted for ''on or after July 1, 1970'' for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words. The words ''to repay immediately money borrowed and used to pay the costs for terminal development at the airport, if those costs would be allowable project costs under section 47110(d) of this title'' are substituted for ''for the immediate retirement of the principal of bonds or other evidences of indebtedness the proceeds of which were used for that part of the terminal development at such airport the cost of which would be allowable under paragraph (1) of this subsection'' for clarity and to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''In a fiscal year'' are added for clarity. In clause (2), the words ''from the discretionary fund'' are substituted for ''sums to be distributed at the discretion of the Secretary under section 2206(c) of this Appendix'' for clarity and consistency in this chapter. In clause (3), the words ''for projects'' are added for clarity.

PUB. L. 103–429

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47119(b)	49 App.:2212(b)(2).	Sept. 3, 1982, Pub. L. 97–248, § 513(b)(2), as amended May 26, 1994, Pub. L. 103–260, § 107, 108 Stat. 700.

In subsection (b)(3), the words ''from the discretionary fund and small airport fund'' are substituted for ''sums to be distributed at the discretion of the Secretary under section 2206(c) and 2206(d) of this Appendix'' for clarity and consistency in this chapter.

REFERENCES IN TEXT

Section 20(b) of the Airport and Airway Development Act of 1970, referred to in subsec. (b)(4), is section 20(b) of Pub. L. 91–258, which was classified to section 1720(b) of former Title 49, Transportation, prior to repeal by Pub. L. 97–248, title V, § 523(a), Sept. 3, 1982, 96 Stat. 695.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–305, § 117(1), inserted ''or, in the case of a commercial service airport which annually had less than 0.05 percent of the total enplanements in the United States, between January 1, 1992, and October 31, 1992,'' after ''July 12, 1976,''.

Subsec. (b)(2). Pub. L. 103–429, § 6(69)(B), added par. (2) and struck out former par. (2) which read as follows: ''to a sponsor of a nonprimary commercial service airport, not more than $200,000 of the amount that may be distributed for the fiscal year from the discretionary fund to pay project costs allowable under section 47110(d) of this title; or''.

Subsec. (b)(3). Pub. L. 103–429, § 6(69)(B), added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 103–429, § 6(69)(A), redesignated par. (3) as (4).

Subsec. (c). Pub. L. 103–305, § 117(2), added subsec. (c).

§ 47120. Grant priority

In making a grant under this subchapter, the Secretary of Transportation may give priority to a project that is consistent with an integrated airport system plan.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1274.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47120	49 App.:2208(b)(9).	Sept. 3, 1982, Pub. L. 97–248, § 509(b)(9), 96 Stat. 685.

The words ''In making a grant under this subchapter'' are substituted for ''In establishing priorities for distribution of funds available pursuant to section 2206 of this Appendix'' for consistency in this chapter and to eliminate unnecessary words.

§ 47121. Records and audits

(a) RECORDS.—A sponsor shall keep the records the Secretary of Transportation requires. The Secretary may require records—

(1) that disclose—

(A) the amount and disposition by the sponsor of the proceeds of the grant;

(B) the total cost of the plan or program for which the grant is given or used; and

(C) the amounts and kinds of costs of the plan or program provided by other sources; and

(2) that make it easier to carry out an audit.

(b) AUDITS AND EXAMINATIONS.—The Secretary and the Comptroller General may audit and examine records of a sponsor that are related to a grant made under this subchapter.

(c) AUTHORITY OF COMPTROLLER GENERAL.—When an independent audit is made of the accounts of a sponsor under this subchapter related to the disposition of the proceeds of the grant or related to the plan or program for which the grant was given or used, the sponsor shall submit a certified copy of the audit to the Secretary not more than 6 months after the end of the fiscal year for which the audit was made. The Comptroller General may report to Congress describing the results of each audit conducted or reviewed by the Comptroller General under this section during the prior fiscal year.

(d) AUDIT REQUIREMENT.—The Secretary may require a sponsor to conduct an appropriate audit as a condition for receiving a grant under this subchapter.

(e) ANNUAL REVIEW.—The Secretary shall review annually the recordkeeping and reporting requirements under this subchapter to ensure that they are the minimum necessary to carry out this subchapter.

(f) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize the Secretary or the Comptroller General to withhold information from a committee of Congress authorized to have the information.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1274; Pub. L. 104–316, title I, § 127(f), Oct. 19, 1996, 110 Stat. 3840.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47121(a)	49 App.:2217(a) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, § 518, 96 Stat. 693.
47121(b)	49 App.:2217(b) (1st sentence).	
47121(c)	49 App.:2217(c).	
47121(d)	49 App.:2217(b) (last sentence).	
47121(e)	49 App.:2217(a) (last sentence).	
47121(f)	49 App.:2217(d).	

In subsections (a)–(d), the word ''sponsor'' is substituted for ''recipient of a grant under this chapter'' and ''recipient'' for clarity.

In subsection (a), before clause (1), the words ''The Secretary may require records'' are substituted for ''including records'' for clarity. In clause (1), before subclause (A), the word ''fully'' is omitted as surplus.

In subsection (b), the words ''or any of their duly authorized representatives'' are omitted as surplus because of 49:322(b) and 31:711. The words ''may audit and examine'' are substituted for ''shall have access for the purpose of audit and examination'' to eliminate unnecessary words. The words ''books, documents, papers'' are omitted as being included in ''records''.

In subsection (e), the words ''minimum necessary to carry out'' are substituted for ''that such requirements are kept to the minimum level necessary for the proper administration of'' to eliminate unnecessary words.

In subsection (f), the words ''or any officer or employee under the control of either of them'' are omitted as surplus because of 49:322(b) and 31:711.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–316, in first sentence, substituted ''Secretary'' for ''Comptroller General'', in second sentence, substituted ''The Comptroller General may'' for ''Not later than April 15 of each year, the Comptroller General shall'', and struck out at end ''The Comptroller General shall prescribe regulations necessary to carry out this subsection.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47110 of this title.

§ 47122. Administrative

(a) GENERAL.—The Secretary of Transportation may take action the Secretary considers necessary to carry out this subchapter, including conducting investigations and public hearings, prescribing regulations and procedures, and issuing orders.

(b) CONDUCTING INVESTIGATIONS AND PUBLIC HEARINGS.—In conducting an investigation or public hearing under this subchapter, the Secretary has the same authority the Secretary has under section 46104 of this title. An action of the Secretary in exercising that authority is governed by the procedures specified in section 46104 and shall be enforced as provided in section 46104.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1275.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47122(a)	49 App.:2218(a).	Sept. 3, 1982, Pub. L. 97–248, § 519(a), 96 Stat. 694; Dec. 30, 1987, Pub. L. 100–223, § 112(1), 101 Stat. 1504.
47122(b)	49 App.:1354(c) (related to Airport and Airway Improvement Act of 1982).	Aug. 23, 1958, Pub. L. 85–726, § 313(c) (related to Airport and Airway Improvement Act of 1982), 72 Stat. 753; Sept. 3, 1982, Pub. L. 97–248, § 524(a)(2), 96 Stat. 696.

Subsection (a) is substituted for 49 App.:2218(a) to eliminate unnecessary words.

§ 47123. Nondiscrimination

The Secretary of Transportation shall take affirmative action to ensure that an individual is not excluded because of race, creed, color, national origin, or sex from participating in an activity carried out with money received under a grant under this subchapter. The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall be similar to those in effect under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). This section is in addition to title VI of the Act.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1275.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47123	49 App.:2219.	Sept. 3, 1982, Pub. L. 97–248, § 520, 96 Stat. 694.

The words ''as the Secretary deems'' and ''the purposes of'' are omitted as surplus. The words ''The regulations shall be similar to those in effect under'' are substituted for ''and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under'' for clarity and to eliminate unnecessary words and because ''rules'' and ''regulations'' are synonymous. The words ''The provisions of . . . and not in lieu of the provisions of'' are omitted as surplus. The word ''is'' is substituted for ''shall be considered to be'' to eliminate unnecessary words.

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

§ 47124. Agreements for State and local operation of airport facilities

(a) GOVERNMENT RELIEF FROM LIABILITY.—The Secretary of Transportation shall ensure that an

agreement under this subchapter with a State or a political subdivision of a State to allow the State or subdivision to operate an airport facility in the State or subdivision relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the State or subdivision in operating the airport facility.

(b) AIR TRAFFIC CONTROL CONTRACT PROGRAM.—(1) The Secretary shall continue the low activity (Visual Flight Rules) level I air traffic control tower contract program established under subsection (a) of this section for towers existing on December 30, 1987, and extend the program to other towers as practicable.

(2) The Secretary may make a contract, on a sole source basis, with a State or a political subdivision of a State to allow the State or subdivision to operate an airport traffic control tower classified as a level I (Visual Flight Rules) tower if the Secretary decides that the State or subdivision has the capability to comply with the requirements of this paragraph. The contract shall require that the State or subdivision comply with applicable safety regulations in operating the facility and with applicable competition requirements in making a subcontract to perform work to carry out the contract.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1276.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47124(a)	49 App.:2222.	Sept. 3, 1982, Pub. L. 97–248, §526, 96 Stat. 698.
47124(b)(1) ..	49 App.:2222 (note).	Dec. 30, 1987, Pub. L. 100–223, §306, 101 Stat. 1526.
47124(b)(2) ..	49 App.:1344(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 747, §303(h); added Oct. 31, 1992, Pub. L. 102–581, §201(a), 106 Stat. 4890.

In subsection (a), the words ''In the powers granted under section 2218 of this Appendix'' and ''contract or other'' are omitted as surplus. The word ''relieves'' is substituted for ''contain, among others, a provision relieving'', and the words ''from any liability arising out of, or related to'' are substituted for ''of any and all liability for the payment of any claim or other obligation arising out of or in connection with'', to eliminate unnecessary words.

In subsection (b)(1), the words ''in effect'' are omitted as surplus. The words ''on December 30, 1987'' are added for clarity.

In subsection (b)(2), the word ''Secretary'' is substituted for ''Administrator'' for consistency in the chapter.

CONTRACT TOWER ASSISTANCE

Pub. L. 103–305, title V, §508, Aug. 23, 1994, 108 Stat. 1596, provided that: ''The Secretary shall take appropriate action to assist communities where the Secretary deems such assistance appropriate in obtaining the installation of a Level I Contract Tower for those communities.''

§ 47125. Conveyances of United States Government land

(a) CONVEYANCES TO PUBLIC AGENCIES.—Except as provided in subsection (b) of this section, the Secretary of Transportation shall request the head of the department, agency, or instrumentality of the United States Government owning or controlling land or airspace to convey a property interest in the land or airspace to the public agency sponsoring the project or owning or controlling the airport when necessary to carry out a project under this subchapter at a public airport, to operate a public airport, or for the future development of an airport under the national plan of integrated airport systems. The head of the department, agency, or instrumentality shall decide whether the requested conveyance is consistent with the needs of the department, agency, or instrumentality and shall notify the Secretary of that decision not later than 4 months after receiving the request. If the head of the department, agency, or instrumentality decides that the requested conveyance is consistent with its needs, the head of the department, agency, or instrumentality, with the approval of the Attorney General and without cost to the Government, shall make the conveyance. A conveyance may be made only on the condition that the property interest conveyed reverts to the Government, at the option of the Secretary, to the extent it is not developed for an airport purpose or used consistently with the conveyance.

(b) NONAPPLICATION.—Except as specifically provided by law, subsection (a) of this section does not apply to land or airspace owned or controlled by the Government within—

(1) a national park, national monument, national recreation area, or similar area under the administration of the National Park Service;

(2) a unit of the National Wildlife Refuge System or similar area under the jurisdiction of the United States Fish and Wildlife Service; or

(3) a national forest or Indian reservation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1276.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47125(a)	49 App.:2215(a), (b).	Sept. 3, 1982, Pub. L. 97–248, §516, 96 Stat. 692.
47125(b)	49 App.:2215(c).	

In subsection (a), the text of 49 App.:2215(a) (last sentence) is omitted as surplus because a ''property interest in land or airspace'' necessarily includes ''title to . . . land or any easement through . . . airspace''. The words ''when necessary'' are substituted for ''whenever the Secretary determines that use of any lands owned or controlled by the United States is reasonably necessary for'', and the words ''for the future development'' are substituted for ''including lands reasonably necessary to meet future development'', to eliminate unnecessary words. The words ''not later than 4 months after receiving the request'' are substituted for ''Upon receipt of a request from the Secretary under this section'' and ''within a period of four months after receipt of the Secretary's request'' for clarity and to eliminate unnecessary words. The words ''make the conveyance'' are substituted for ''perform any acts and to execute any instruments necessary to make the conveyance requested'', and the words ''that the property interest conveyed reverts to the Government . . . to the extent it is not'' are substituted for ''the property interest conveyed shall revert to the United States in the event that the lands in question are not'' and ''If only a part of the property interest conveyed is not developed for airport purposes, or used in a manner consistent with

the terms of the conveyance, only that particular part shall, at the option of the Secretary, revert to the United States'', to eliminate unnecessary words. The words ''the terms of'' are omitted as surplus.

§ 47126. Criminal penalties for false statements

A person (including an officer, agent, or employee of the United States Government or a public agency) shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person, with intent to defraud the Government, knowingly makes—

(1) a false statement about the kind, quantity, quality, or cost of the material used or to be used, or the quantity, quality, or cost of work performed or to be performed, in connection with the submission of a plan, map, specification, contract, or estimate of project cost for a project included in a grant application submitted to the Secretary of Transportation for approval under this subchapter;

(2) a false statement or claim for work or material for a project included in a grant application approved by the Secretary under this subchapter; or

(3) a false statement in a report or certification required under this subchapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1277.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47126	49 App.:2216.	Sept. 3, 1982, Pub. L. 97–248, § 517, 96 Stat. 693.

In this section, before clause (1), the words ''association, firm, or corporation'' are omitted because of 1:1. The words ''fined under title 18'' are substituted for ''a fine of not to exceed $10,000'' for consistency with title 18. In clauses (1)–(3), the words ''false representation'' are omitted as surplus. In clauses (1) and (2), the words ''false report'' are omitted as surplus. The words ''included in a grant application'' are added for clarity and consistency in this chapter. In clause (3), the words ''to be made'' are omitted as surplus.

§ 47127. Ground transportation demonstration projects

(a) GENERAL AUTHORITY.—To improve the airport and airway system of the United States consistent with regional airport system plans financed under section 13(b) of the Airport and Airway Development Act of 1970, the Secretary of Transportation may carry out ground transportation demonstration projects to improve ground access to air carrier airport terminals. The Secretary may carry out a demonstration project independently or by grant or contract, including an agreement with another department, agency, or instrumentality of the United States Government.

(b) PRIORITY.—In carrying out this section, the Secretary shall give priority to a demonstration project that—

(1) affects an airport in an area with an operating regional rapid transit system with existing facilities reasonably near the airport;

(2) includes connection of the airport terminal to that system;

(3) is consistent with and supports a regional airport system plan adopted by the planning agency for the region and submitted to the Secretary; and

(4) improves access to air transportation for individuals residing or working in the region by encouraging the optimal balance of use of airports in the region.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1277.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47127(a)	49 App.:1713a(1).	July 12, 1976, Pub. L. 94–353, § 23(a), 90 Stat. 884.
47127(b)	49 App.:1713a(2).	

In subsection (a), the words ''To improve'' are substituted for ''which he determines will assist the improvement of'' to eliminate unnecessary words.

In subsection (b)(2), the word ''facilities'' is omitted as surplus.

REFERENCES IN TEXT

Section 13(b) of the Airport and Airway Development Act of 1970, referred to in subsec. (a), is section 13(b) of Pub. L. 91–258, which was classified to section 1713(b) of former Title 49, Transportation, prior to repeal by Pub. L. 97–248, title V, § 523(a), Sept. 3, 1982, 96 Stat. 695.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 50101, 50102, 50104, 50105 of this title.

§ 47128. State block grant program

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall prescribe regulations to carry out a State block grant program. The regulations shall provide that the Secretary may designate not more than 8 qualified States for fiscal year 1997 and 9 qualified States for each fiscal year thereafter to assume administrative responsibility for all airport grant amounts available under this subchapter, except for amounts designated for use at primary airports.

(b) APPLICATIONS AND SELECTION.—A State wishing to participate in the program must submit an application to the Secretary. The Secretary shall select a State on the basis of its application only after—

(1) deciding the State has an organization capable of effectively administering a block grant made under this section;

(2) deciding the State uses a satisfactory airport system planning process;

(3) deciding the State uses a programming process acceptable to the Secretary;

(4) finding that the State has agreed to comply with United States Government standard requirements for administering the block grant; and

(5) finding that the State has agreed to provide the Secretary with program information the Secretary requires.

(c) SAFETY AND SECURITY NEEDS AND NEEDS OF SYSTEM.—Before deciding whether a planning process is satisfactory or a programming process is acceptable under subsection (b)(2) or (b)(3) of this section, the Secretary shall ensure that the process provides for meeting critical safety and security needs and that the programming process ensures that the needs of the national airport system will be addressed in deciding which

projects will receive money from the Government. In carrying out this subsection, the Secretary shall permit a State to use the priority system of the State if such system is not inconsistent with the national priority system.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1277; Pub. L. 103–429, §6(70), Oct. 31, 1994, 108 Stat. 4387; Pub. L. 104–264, title I, §147(a)–(c)(1), Oct. 9, 1996, 110 Stat. 3223; Pub. L. 104–287, §5(84), Oct. 11, 1996, 110 Stat. 3397; Pub. L. 105–102, §3(d)(1)(E), Nov. 20, 1997, 111 Stat. 2215.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47128(a)	49 App.:2227(a) (1st sentence), (b) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §534; added Dec. 30, 1987, Pub. L. 100–223, §116, 101 Stat. 1507; Nov. 5, 1990, Pub. L. 101–508, §9114, 104 Stat. 1388–364; Oct. 31, 1992, Pub. L. 102–581, §116, 106 Stat. 4881.
47128(b)(1) ..	49 App.:2227(c) (1st, 2d sentences).	
47128(b)(2) ..	49 App.:2227(b) (last sentence).	
47128(c)	49 App.:2227(c) (last sentence).	
47128(d)	49 App.:2227(a) (last sentence), (d).	

In subsection (a), the words ''Not later than 180 days after December 30, 1987'' and ''to become effective on October 1, 1989'' are omitted as obsolete.

In subsection (b)(1)(A), the words ''agency or'' are omitted as surplus.

In subsection (b)(1)(D), the words ''procedural and other'' are omitted as surplus.

In subsection (d), the text of 49 App.:2227(d) is omitted as executed.

PUB. L. 103–429

This amends 49:47128(c) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1278).

PUB. L. 104–287

This makes a clarifying amendment to the catchline for 49:47128(d).

AMENDMENTS

1997—Subsec. (d). Pub. L. 105–102 repealed Pub. L. 104–287, §5(84). See 1996 Amendment note below.

1996—Pub. L. 104–264, §147(c)(1)(A), substituted ''grant program'' for ''grant pilot program'' in section catchline.

Subsec. (a). Pub. L. 104–264, §147(a)(1), (c)(1)(B), substituted ''block grant program'' for ''block grant pilot program'' and ''8 qualified States for fiscal year 1997 and 9 qualified States for each fiscal year thereafter'' for ''7 qualified States''.

Subsec. (b). Pub. L. 104–264, §147(a)(2), (3), struck out ''(1)'' before ''A State wishing'', redesignated subpars. (A) to (E) as pars. (1) to (5), respectively, and struck out former par. (2) which read as follows: ''For the fiscal years ending September 30, 1993–1996, the States selected shall include Illinois, Missouri, and North Carolina.''

Subsec. (c). Pub. L. 104–264, §147(b), substituted ''(b)(2) or (b)(3)'' for ''(b)(1)(B) or (C)'' and inserted at end ''In carrying out this subsection, the Secretary shall permit a State to use the priority system of the State if such system is not inconsistent with the national priority system.''

Subsec. (d). Pub. L. 104–287, §5(84), which directed amendment of heading by striking ''and report'', was repealed by Pub. L. 105–102.

Pub. L. 104–264, §147(c)(1)(C), struck out subsec. (d) which read as follows:

''(d) ENDING EFFECTIVE DATE AND REPORT.—This section is effective only through September 30, 1996.''

1994—Subsec. (c). Pub. L. 103–429 substituted ''subsection (b)(1)(B) or (C)'' for ''subsection (b)(2) or (3)''.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–102, §3(d), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(d)(1)(E) is effective Oct. 11, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47116 of this title.

§ 47129. Resolution of airport-air carrier disputes concerning airport fees

(a) AUTHORITY TO REQUEST SECRETARY'S DETERMINATION.—

(1) IN GENERAL.—The Secretary of Transportation shall issue a determination as to whether a fee imposed upon one or more air carriers (as defined in section 40102 of this title) by the owner or operator of an airport is reasonable if—

(A) a written request for such determination is filed with the Secretary by such owner or operator; or

(B) a written complaint requesting such determination is filed with the Secretary by an affected air carrier within 60 days after such carrier receives written notice of the establishment or increase of such fee.

(2) CALCULATION OF FEE.—A fee subject to a determination of reasonableness under this section may be calculated pursuant to either a compensatory or residual fee methodology or any combination thereof.

(3) SECRETARY NOT TO SET FEE.—In determining whether a fee is reasonable under this section, the Secretary may only determine whether the fee is reasonable or unreasonable and shall not set the level of the fee.

(4) FEES IMPOSED BY PRIVATELY-OWNED AIRPORTS.—In evaluating the reasonableness of a fee imposed by an airport receiving an exemption under section 47134 of this title, the Secretary shall consider whether the airport has complied with section 47134(c)(4).

(b) PROCEDURAL REGULATIONS.—Not later than 90 days after August 23, 1994, the Secretary shall publish in the Federal Register final regulations, policy statements, or guidelines establishing—

(1) the procedures for acting upon any written request or complaint filed under subsection (a)(1); and

(2) the standards or guidelines that shall be used by the Secretary in determining under this section whether an airport fee is reasonable.

(c) DECISIONS BY SECRETARY.—The final regulations, policy statements, or guidelines required in subsection (b) shall provide the following:

(1) Not more than 120 days after an air carrier files with the Secretary a written complaint relating to an airport fee, the Secretary shall issue a final order determining whether such fee is reasonable.

(2) Within 30 days after such complaint is filed with the Secretary, the Secretary shall dismiss the complaint if no significant dispute exists or shall assign the matter to an administrative law judge; and thereafter the matter shall be handled in accordance with part 302 of title 14, Code of Federal Regulations, or as modified by the Secretary to ensure an orderly disposition of the matter within the 120-day period and any specifically applicable provisions of this section.

(3) The administrative law judge shall issue a recommended decision within 60 days after the complaint is assigned or within such shorter period as the Secretary may specify.

(4) If the Secretary, upon the expiration of 120 days after the filing of the complaint, has not issued a final order, the decision of the administrative law judge shall be deemed to be the final order of the Secretary.

(5) Any party to the dispute may seek review of a final order of the Secretary under this subsection in the Circuit Court of Appeals for the District of Columbia Circuit or the court of appeals in the circuit where the airport which gives rise to the written complaint is located.

(6) Any findings of fact in a final order of the Secretary under this subsection, if supported by substantial evidence, shall be conclusive if challenged in a court pursuant to this subsection. No objection to such a final order shall be considered by the court unless objection was urged before an administrative law judge or the Secretary at a proceeding under this subsection or, if not so urged, unless there were reasonable grounds for failure to do so.

(d) PAYMENT UNDER PROTEST; GUARANTEE OF AIR CARRIER ACCESS.—

(1) PAYMENT UNDER PROTEST.—

(A) IN GENERAL.—Any fee increase or newly established fee which is the subject of a complaint that is not dismissed by the Secretary shall be paid by the complainant air carrier to the airport under protest.

(B) REFERRAL OR CREDIT.—Any amounts paid under this subsection by a complainant air carrier to the airport under protest shall be subject to refund or credit to the air carrier in accordance with directions in the final order of the Secretary within 30 days of such order.

(C) ASSURANCE OF TIMELY REPAYMENT.—In order to assure the timely repayment, with interest, of amounts in dispute determined not to be reasonable by the Secretary, the airport shall obtain a letter of credit, or surety bond, or other suitable credit facility, equal to the amount in dispute that is due during the 120-day period established by this section, plus interest, unless the airport and the complainant air carrier agree otherwise.

(D) DEADLINE.—The letter of credit, or surety bond, or other suitable credit facility shall be provided to the Secretary within 20 days of the filing of the complaint and shall remain in effect for 30 days after the earlier of 120 days or the issuance of a timely final order by the Secretary determining whether such fee is reasonable.

(2) GUARANTEE OF AIR CARRIER ACCESS.—Contingent upon an air carrier's compliance with the requirements of paragraph (1) and pending the issuance of a final order by the Secretary determining the reasonableness of a fee that is the subject of a complaint filed under subsection (a)(1)(B), an owner or operator of an airport may not deny an air carrier currently providing air service at the airport reasonable access to airport facilities or service, or otherwise interfere with an air carrier's prices, routes, or services, as a means of enforcing the fee.

(e) APPLICABILITY.—This section does not apply to—

(1) a fee imposed pursuant to a written agreement with air carriers using the facilities of an airport;

(2) a fee imposed pursuant to a financing agreement or covenant entered into prior to August 23, 1994; or

(3) any other existing fee not in dispute as of August 23, 1994.

(f) EFFECT ON EXISTING AGREEMENTS.—Nothing in this section shall adversely affect—

(1) the rights of any party under any existing written agreement between an air carrier and the owner or operator of an airport; or

(2) the ability of an airport to meet its obligations under a financing agreement, or covenant, that is in force as of August 23, 1994.

(g) DEFINITION.—In this section, the term ''fee'' means any rate, rental charge, landing fee, or other service charge for the use of airport facilities.

(Added Pub. L. 103–305, title I, § 113(a)(2), Aug. 23, 1994, 108 Stat. 1577; amended Pub. L. 104–264, title I, § 149(d), Oct. 9, 1996, 110 Stat. 3227; Pub. L. 104–287, § 5(85), Oct. 11, 1996, 110 Stat. 3397.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287, § 5(85)(A)

This amends 49:47129(a)(1) to conform to the style of title 49.

PUB. L. 104–287, § 5(85)(B) AND (C)

These set out the date of enactment of 49:47129.

PRIOR PROVISIONS

A prior section 47129 was renumbered section 47131 of this title.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–287, §5(85)(A), substituted ''of this title'' for ''of this subtitle'' in introductory provisions.

Subsec. (a)(4). Pub. L. 104–264 added par. (4).

Subsecs. (b), (e)(2). Pub. L. 104–287, §5(85)(B), substituted ''August 23, 1994'' for ''the date of the enactment of this section''.

Subsec. (e)(3). Pub. L. 104–287, §5(85)(C), substituted ''August 23, 1994'' for ''such date of enactment''.

Subsec. (f)(2). Pub. L. 104–287, §5(85)(B), substituted ''August 23, 1994'' for ''the date of the enactment of this section''.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

§ 47130. Airport safety data collection

Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may contract, using sole source or limited source authority, for the collection of airport safety data.

(Added Pub. L. 103–305, title I, §118(a), Aug. 23, 1994, 108 Stat. 1580.)

§ 47131. Annual report

Not later than April 1 of each year, the Secretary of Transportation shall submit to Congress a report on activities carried out under this subchapter during the prior fiscal year. The report shall include—

(1) a detailed statement of airport development completed;

(2) the status of each project undertaken;

(3) the allocation of appropriations; and

(4) an itemized statement of expenditures and receipts.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1278, §47129; renumbered §47131, Pub. L. 103–305, title I, §113(a)(1), Aug. 23, 1994, 108 Stat. 1577.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47129	49 App.:2220.	Sept. 3, 1982, Pub. L. 97–248, §521, 96 Stat. 694.

In this section, before clause (1), the words ''on activities carried out'' are substituted for ''describing his operations'' for clarity.

AMENDMENTS

1994—Pub. L. 103–305 renumbered section 47129 of this title as this section.

§ 47132. Pavement maintenance

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall issue guidelines to carry out a pavement maintenance pilot project to preserve and extend the useful life of runways, taxiways, and aprons at airports for which apportionments are made under section 47114(d). The guidelines shall provide that the Administrator may designate not more than 10 projects. The guidelines shall provide criteria for the Administrator to use in choosing the projects. At least 2 such projects must be in States without a primary airport that had 0.25 percent or more of the total boardings in the United States in the preceding calendar year. In designating a project, the Administrator shall take into consideration geographical, climatological, and soil diversity.

(b) EFFECTIVE DATE.—This section shall be effective beginning on the date of the enactment of this section and ending on September 30, 1999.

(Added Pub. L. 104–264, title I, §142(a), Oct. 9, 1996, 110 Stat. 3221.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (b), is the date of enactment of Pub. L. 104–264, which was approved Oct. 9, 1996.

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

§ 47133. Restriction on use of revenues

(a) PROHIBITION.—Local taxes on aviation fuel (except taxes in effect on December 30, 1987) or the revenues generated by an airport that is the subject of Federal assistance may not be expended for any purpose other than the capital or operating costs of—

(1) the airport;

(2) the local airport system; or

(3) any other local facility that is owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property.

(b) EXCEPTIONS.—Subsection (a) shall not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(Added Pub. L. 104–264, title VIII, §804(a), Oct. 9, 1996, 110 Stat. 3271.)

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46301, 47107, 47134 of this title.

§ 47134. Pilot program on private ownership of airports

(a) SUBMISSION OF APPLICATIONS.—If a sponsor intends to sell or lease a general aviation airport or lease any other type of airport for a long term to a person (other than a public agency), the sponsor and purchaser or lessee may apply to the Secretary of Transportation for exemptions under this section.

(b) APPROVAL OF APPLICATIONS.—The Secretary may approve, with respect to not more than 5 airports, applications submitted under subsection (a) granting exemptions from the following provisions:

(1) USE OF REVENUES.—

(A) IN GENERAL.—The Secretary may grant an exemption to a sponsor from the provisions of sections 47107(b) and 47133 of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the sponsor to recover from the sale or lease of the airport such amount as may be approved—

(i) by at least 65 percent of the air carriers serving the airport; and

(ii) by air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year.

(B) LANDED WEIGHT DEFINED.—In this paragraph, the term ''landed weight'' means the weight of aircraft transporting passengers or cargo, or both, in intrastate, interstate, and foreign air transportation, as the Secretary determines under regulations the Secretary prescribes.

(2) REPAYMENT REQUIREMENTS.—The Secretary may grant an exemption to a sponsor from the provisions of sections 47107 and 47152 of this title (and any other law, regulation, or grant assurance) to the extent necessary to waive any obligation of the sponsor to repay to the Federal Government any grants, or to return to the Federal Government any property, received by the airport under this title, the Airport and Airway Improvement Act of 1982, or any other law.

(3) COMPENSATION FROM AIRPORT OPERATIONS.—The Secretary may grant an exemption to a purchaser or lessee from the provisions of sections 47107(b) and 47133 of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the purchaser or lessee to earn compensation from the operations of the airport.

(c) TERMS AND CONDITIONS.—The Secretary may approve an application under subsection (b) only if the Secretary finds that the sale or lease agreement includes provisions satisfactory to the Secretary to ensure the following:

(1) The airport will continue to be available for public use on reasonable terms and conditions and without unjust discrimination.

(2) The operation of the airport will not be interrupted in the event that the purchaser or lessee becomes insolvent or seeks or becomes subject to any State or Federal bankruptcy, reorganization, insolvency, liquidation, or dissolution proceeding or any petition or similar law seeking the dissolution or reorganization of the purchaser or lessee or the appointment of a receiver, trustee, custodian, or liquidator for the purchaser or lessee or a substantial part of the purchaser or lessee's property, assets, or business.

(3) The purchaser or lessee will maintain, improve, and modernize the facilities of the airport through capital investments and will submit to the Secretary a plan for carrying out such maintenance, improvements, and modernization.

(4) Every fee of the airport imposed on an air carrier on the day before the date of the lease of the airport will not increase faster than the rate of inflation unless a higher amount is approved—

(A) by at least 65 percent of the air carriers serving the airport; and

(B) by air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year.

(5) The percentage increase in fees imposed on general aviation aircraft at the airport will not exceed the percentage increase in fees imposed on air carriers at the airport.

(6) Safety and security at the airport will be maintained at the highest possible levels.

(7) The adverse effects of noise from operations at the airport will be mitigated to the same extent as at a public airport.

(8) Any adverse effects on the environment from airport operations will be mitigated to the same extent as at a public airport.

(9) Any collective bargaining agreement that covers employees of the airport and is in effect on the date of the sale or lease of the airport will not be abrogated by the sale or lease.

(d) PARTICIPATION OF CERTAIN AIRPORTS.—

(1) GENERAL AVIATION AIRPORTS.—If the Secretary approves under subsection (b) applications with respect to 5 airports, one of the airports must be a general aviation airport.

(2) LARGE HUB AIRPORTS.—The Secretary may not approve under subsection (b) more than 1 application submitted by an airport that had 1 percent or more of the total passenger boardings (as defined in section 47102) in the United States in the preceding calendar year.

(e) REQUIRED FINDING THAT APPROVAL WILL NOT RESULT IN UNFAIR METHODS OF COMPETITION.—The Secretary may approve an application under subsection (b) only if the Secretary finds that the approval will not result in unfair and deceptive practices or unfair methods of competition.

(f) INTERESTS OF GENERAL AVIATION USERS.—In approving an application of an airport under this section, the Secretary shall ensure that the interests of general aviation users of the airport are not adversely affected.

(g) PASSENGER FACILITY FEES; APPORTIONMENTS; SERVICE CHARGES.—Notwithstanding

that the sponsor of an airport receiving an exemption under subsection (b) is not a public agency, the sponsor shall not be prohibited from—

(1) imposing a passenger facility fee under section 40117 of this title;

(2) receiving apportionments under section 47114 of this title; or

(3) collecting reasonable rental charges, landing fees, and other service charges from aircraft operators under section 40116(e)(2) of this title.

(h) EFFECTIVENESS OF EXEMPTIONS.—An exemption granted under subsection (b) shall continue in effect only so long as the facilities sold or leased continue to be used for airport purposes.

(i) REVOCATION OF EXEMPTIONS.—The Secretary may revoke an exemption issued to a purchaser or lessee of an airport under subsection (b)(3) if, after providing the purchaser or lessee with notice and an opportunity to be heard, the Secretary determines that the purchaser or lessee has knowingly violated any of the terms specified in subsection (c) for the sale or lease of the airport.

(j) NONAPPLICATION OF PROVISIONS TO AIRPORTS OWNED BY PUBLIC AGENCIES.—The provisions of this section requiring the approval of air carriers in determinations concerning the use of revenues, and imposition of fees, at an airport shall not be extended so as to apply to any airport owned by a public agency that is not participating in the program established by this section.

(k) AUDITS.—The Secretary may conduct periodic audits of the financial records and operations of an airport receiving an exemption under this section.

(*l*) REPORT.—Not later than 2 years after the date of the initial approval of an application under this section, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on implementation of the program under this section.

(m) GENERAL AVIATION AIRPORT DEFINED.—In this section, the term ''general aviation airport'' means an airport that is not a commercial service airport.

(Added Pub. L. 104–264, title I, §149(a)(1), Oct. 9, 1996, 110 Stat. 3224.)

REFERENCES IN TEXT

The Airport and Airway Improvement Act of 1982, referred to in subsec. (b)(2), is title V of Pub. L. 97–248, Sept. 3, 1982, 96 Stat. 671, as amended, which was classified principally to chapter 31 (§2201 et seq.) of former Title 49, Transportation, and was substantially repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as this subchapter.

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40116, 47109, 47129 of this title.

SUBCHAPTER II—SURPLUS PROPERTY FOR PUBLIC AIRPORTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 5 sections 551, 701.

§ 47151. Authority to transfer an interest in surplus property

(a) GENERAL AUTHORITY.—Subject to sections 47152 and 47153 of this title, a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation may give a State, political subdivision of a State, or tax-supported organization any interest in surplus property—

(1) that the Secretary of Transportation decides is—

(A) desirable for developing, improving, operating, or maintaining a public airport (as defined in section 47102 of this title);

(B) reasonably necessary to fulfill the immediate and foreseeable future requirements for developing, improving, operating, or maintaining a public airport; or

(C) needed for developing sources of revenue from nonaviation businesses at a public airport; and

(2) if the Administrator of General Services approves the gift and decides the interest is not best suited for industrial use.

(b) ENSURING COMPLIANCE.—Only the Secretary may ensure compliance with an instrument giving an interest in surplus property under this subchapter. The Secretary may amend the instrument to correct the instrument or to make the gift comply with law.

(c) DISPOSING OF INTERESTS NOT GIVEN UNDER THIS SUBCHAPTER.—An interest in surplus property that could be used at a public airport but that is not given under this subchapter shall be disposed of under other applicable law.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1278.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47151(a)	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
	50 App.:1622(g)(1).	Oct. 3, 1944, ch. 479, 58 Stat. 765, §13(g)(1); added July 30, 1947, ch. 404, §2, 61 Stat. 678; Aug. 23, 1958, Pub. L. 85–726, §1402(c), 72 Stat. 807; May 21, 1970, Pub. L. 91–258, §52(b)(6), 84 Stat. 235; Sept. 3, 1982, Pub. L. 97–248, §524(c), 96 Stat. 696.
47151(b)	49 App.:1655(c)(1). 50 App.:1622b.	Oct. 1, 1949, ch. 589, §3, 63 Stat. 700; Aug. 23, 1958, Pub. L. 85–726, §1402(c), 72 Stat. 807.
47151(c)	50 App.:1622(g)(5), (6).	Oct. 3, 1944, ch. 479, 58 Stat. 765, §13(g)(5), (6); added July 30, 1947, ch. 404, §2, 61 Stat. 680.

In subsection (a), before clause (1), the words ''Notwithstanding any other provision of this Act'' are omitted as surplus. The words ''Subject to sections 47152 and 47153 of this title'' are substituted for ''but subject to the terms, conditions, reservations, and restrictions hereinafter provided for'' to eliminate unnecessary words. The words ''a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation'' are substituted for ''any disposal agency designated pursuant to this Act'' for clarity because disposal agencies were Government agencies designated under 50 App.:1619(a), that was repealed by section 602(a)(1) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 399), and Government agencies were all departments, agencies, and instrumentalities of the executive branch of the United States Government and wholly owned Government corporations. The word ''give'' is substituted for ''convey or dispose of . . . without monetary consideration to the United States'', to eliminate unnecessary words. The word ''municipality'' is omitted as being included in ''political subdivision''. The words ''of a State'' are added for clarity and consistency in the revised title and with other titles of the United States Code. The word ''organization'' is substituted for ''institution'' for consistency in the revised title. The words ''all of the right, title, and . . . of the United States . . . and to . . . real or personal'' are omitted as surplus. In clause (1)(A), the words ''essential, suitable, or'' are omitted as surplus. In clause (1)(B), the words ''of the grantee'' are omitted as surplus. In clause (2), the words ''Administrator of General Services'' are substituted for ''[War Assets] Administrator'' in section 13(g)(1) of the Surplus Property Act of 1944 (ch. 479, 58 Stat. 765) because of section 105 of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 381). The words ''and decides the interest is not best suited for industrial use'' are substituted for ''(exclusive of property the highest and best use of which is determined by the Administrator of General Services to be industrial and which shall be so classified for disposal without regard to the provisions of this subsection)'' to eliminate unnecessary words.

Subsection (b) is substituted for 50 App.:1622b to eliminate unnecessary words.

In subsection (c), the text of 50 App.:1622(g)(5) is omitted as obsolete because 50 App.:1621, 1622(f), and 1627(e) were repealed by section 602(a)(1) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 399). The words ''An interest in surplus property that could be used at a public airport'' are substituted for ''All surplus property within the purview of this subsection'' for clarity. The words ''elsewhere in this Act or other applicable'' are omitted as surplus. The word ''law'' is substituted for ''Federal Statute'' for consistency in the revised title and with other titles of the Code.

§ 47152. Terms of gifts

Except as provided in section 47153 of this title, the following terms apply to a gift of an interest in surplus property under this subchapter:

(1) A State, political subdivision of a State, or tax-supported organization receiving the interest may use, lease, salvage, or dispose of the interest for other than airport purposes only after the Secretary of Transportation gives written consent that the interest can be used, leased, salvaged, or disposed of without materially and adversely affecting the development, improvement, operation, or maintenance of the airport at which the property is located.

(2) The interest shall be used and maintained for public use and benefit without unreasonable discrimination.

(3) A right may not be vested in a person, excluding others in the same class from using the airport at which the property is located—

(A) to conduct an aeronautical activity requiring the operation of aircraft; or

(B) to engage in selling or supplying aircraft, aircraft accessories, equipment, or supplies (except gasoline and oil), or aircraft services necessary to operate aircraft (including maintaining and repairing aircraft, aircraft engines, propellers, and appliances).

(4) The State, political subdivision, or tax-supported organization accepting the interest shall clear and protect the aerial approaches to the airport by mitigating existing, and preventing future, airport hazards.

(5) During a national emergency declared by the President or Congress, the United States Government is entitled to use, control, or possess, without charge, any part of the public airport at which the property is located. However, the Government shall—

(A) pay the entire cost of maintaining the part of the airport it exclusively uses, controls, or possesses during the emergency;

(B) contribute a reasonable share, consistent with the Government's use, of the cost of maintaining the property it uses nonexclusively, or over which the Government has nonexclusive control or possession, during the emergency; and

(C) pay a fair rental for use, control, or possession of improvements to the airport made without Government assistance.

(6) The Government is entitled to the nonexclusive use, without charge, of the landing area of an airport at which the property is located. The Secretary may limit the use of the landing area if necessary to prevent unreasonable interference with use by other authorized aircraft. However, the Government shall—

(A) contribute a reasonable share, consistent with the Government's use, of the cost of maintaining and operating the landing area; and

(B) pay for damages caused by its use of the landing area if its use of the landing area is substantial.

(7) The State, political subdivision, or tax-supported organization accepting the interest shall release the Government from all liability for damages arising under an agreement that provides for Government use of any part of an airport owned, controlled, or operated by the State, political subdivision, or tax-supported organization on which, adjacent to which, or in connection with which, the property is located.

(8) When a term under this section is not satisfied, any part of the interest in the property reverts to the Government, at the option of the Government, as the property then exists.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1279.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47152	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
	50 App.:1622(g)(2).	Oct. 3, 1944, ch. 479, 58 Stat. 765, §13(g)(2); added July 30, 1947, ch. 404, §2, 61 Stat. 678; Oct. 1, 1949, ch. 589, §1, 63 Stat. 700; Aug. 23, 1958, Pub. L. 85–726, §1402(c), 72 Stat. 807.

In this section, before paragraph (1), the words ''conditions, reservations, and restrictions'' and ''the authority of'' are omitted as surplus. In paragraph (1), the words ''A State, political subdivision of a State, or tax-supported organization receiving the interest'' are substituted for ''grantee or transferee'' for clarity. The words ''sold'' and ''disposed of under the authority of this subsection'' are omitted as surplus. In paragraph (2), the words ''transferred for airport purposes'' are omitted as surplus. In paragraph (3), before clause (A), the words ''For the purpose of this condition, an exclusive right is defined to mean'' and ''any exclusive right to'' are omitted because of the restatement. The words ''exclusive'' and ''(either directly or indirectly)'' are omitted as surplus. The words ''or persons'' are omitted because of 1:1. The words ''disposed of'' are omitted as surplus. In clause (A), the word ''particular'' is omitted as surplus. In paragraph (4), the words ''removing, lowering, relocating, marking, or lighting or otherwise'' and ''the establishment or creation of'' are omitted as surplus. In paragraphs (5)–(7), the words ''or used'' are omitted as surplus. In paragraph (5), before clause (A), the words ''exclusive or nonexclusive'' and ''as it may desire'' are omitted as surplus. In clause (A), the word ''pay'' is substituted for ''be responsible for'' to eliminate unnecessary words. The words ''during the emergency'' are substituted for ''during the period of such use, possession, or control'' to eliminate unnecessary words and for clarity. In clause (B), the words ''be obligated to'' are omitted as surplus. The words ''during the emergency'' are added for clarity. In clause (C), the words ''exclusively or nonexclusively'' are omitted as surplus. In paragraph (6), before clause (A), the words ''as may be determined at any time'' are omitted as surplus. In clause (B), the words ''be obligated to'' are omitted as surplus. In paragraph (7), the words ''The State, political subdivision, or tax-supported organization accepting the interest'' are substituted for ''Any public agency accepting a conveyance or transfer of surplus property under the provisions of this subsection'' to eliminate unnecessary words and for consistency in this section. The words ''any and . . . it may be under for restoration or other . . lease or other'' are omitted as surplus. The text of 50 App.:1622(g)(2)(G) (proviso) is omitted because 49 App.:1116 was repealed by section 52(a) of the Airport and Airway Development Act of 1970 (Public Law 91–258, 84 Stat. 235). Paragraph (8) is substituted for 50 App.:1622(g)(2)(H) to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47134, 47151, 47153 of this title.

§ 47153. Waiving and adding terms

(a) GENERAL AUTHORITY.—(1) The Secretary of Transportation may waive, without charge, a term of a gift of an interest in property under this subchapter if the Secretary decides that—

(A) the property no longer serves the purpose for which it was given; or

(B) the waiver will not prevent carrying out the purpose for which the gift was made and is necessary to advance the civil aviation interests of the United States.

(2) The Secretary of Transportation shall waive a term under paragraph (1) of this subsection on terms the Secretary considers necessary to protect or advance the civil aviation interests of the United States.

(b) WAIVERS AND INCLUSION OF ADDITIONAL TERMS ON REQUEST.—On request of the Secretary of Transportation or the Secretary of a military department, a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation may waive a term required by section 47152 of this title or add another term if the appropriate Secretary decides it is necessary to protect or advance the interests of the United States in civil aviation or for national defense.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1280.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47153(a)	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
	50 App.:1622c.	Oct. 1, 1949, ch. 589, §4, 63 Stat. 700; Aug. 23, 1958, Pub. L. 85–726, §1402(c), 72 Stat. 807.
47153(b)	49 App.:1655(c)(1). 50 App.:1622(g)(3).	Oct. 3, 1944, ch. 479, 58 Stat. 765, §13(g)(3); added July 30, 1947, ch. 404, §2, 61 Stat. 680; Aug. 23, 1958, Pub. L. 85–726, §1402(c), 72 Stat. 807.

In subsection (a), before clause (1), the words ''Notwithstanding any other provision of law'' and ''further'' are omitted as surplus. The word ''waive'' is substituted for ''grant releases from'' and ''and to convey, quitclaim, or release any right or interest reserved to the United States by'' to eliminate unnecessary words. The words ''a term of a gift of an interest in property under this subchapter'' are substituted for ''any of the terms, conditions, reservations, and restrictions contained in . . . any such instrument of disposal'' for clarity and consistency. In clause (1), the words ''transferred by such instrument'' are omitted as surplus. In clause (2), the text of 50 App.:1622c (last proviso) is omitted as executed. The words ''protect or'' are omitted as surplus.

In subsection (b), the words ''In making any disposition of surplus property under this subsection'' are omitted as surplus. The words ''Secretary of a military department'' are substituted for ''the Secretary of the Army, or the Secretary of the Navy'' for consistency with other titles of the United States Code and to eliminate unnecessary words. The words ''Secretary of the Army'' are substituted for ''Secretary of War'' in section 13(g)(3) of the Surplus Property Act of 1944 (ch. 479, 58 Stat. 765) because of section 205(a) of the National Security Act of 1947 (ch. 343, 61 Stat. 501). The Secretary of the Air Force is included in ''Secretary of a military department'' because of section 207(a) and (f) of the National Security Act of 1947 (ch. 343, 61 Stat. 502, 503). The word ''waive'' is substituted for ''omit from the instrument of disposal'' to eliminate unnecessary words and for consistency in this subchapter. The words ''conditions, reservations, and restrictions'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47151, 47152 of this title.

CHAPTER 473—INTERNATIONAL AIRPORT FACILITIES

Sec.
47301. Definitions.
47302. Providing airport and airway property in foreign territories.
47303. Training foreign citizens.
47304. Transfer of airport and airway property.
47305. Administrative.
47306. Criminal penalty.

§ 47301. Definitions

In this chapter—

(1) ''airport property'' means an interest in property used or useful in operating and maintaining an airport.

(2) ''airway property'' means an interest in property used or useful in operating and maintaining a ground installation, facility, or equipment desirable for the orderly and safe operation of air traffic, including air navigation, air traffic control, airway communication, and meteorological facilities.

(3) ''foreign territory'' means an area—

(A) over which no government or a government of a foreign country has sovereignty;

(B) temporarily under military occupation by the United States Government; or

(C) occupied or administered by the Government or a government of a foreign country under an international agreement.

(4) ''territory outside the continental United States'' means territory outside the 48 contiguous States and the District of Columbia.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1280.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47301(1)–(3)	49 App.:1151.	June 16, 1948, ch. 473, § 2, 62 Stat. 450; Aug. 23, 1958, Pub. L. 85–726, § 1403, 72 Stat. 808.
47301(4)	(no source).	

In this section, the words ''the purposes of'' and ''The term'' are omitted as surplus.

In clauses (1) and (2), the words ''real or personal'', ''directly or indirectly'', ''administration'', and ''(including parts and components thereof)'' are omitted as surplus.

In clause (1), the words ''including . . . (1) land; (2) runways, strips, taxiways, and parking aprons; (3) buildings, structures, improvements, and facilities, whether or not used in connection with the landing and take-off of aircraft; and (4) equipment . . . furniture, vehicles, and supplies'' are omitted as being included in ''an interest in property''.

In clause (2), the words ''necessary or'' are omitted as surplus.

In clause (3), before subclause (A), the words ''of land or water'' are omitted as surplus. In subclause (A), the words ''no government or a government of a foreign country'' are substituted for ''no nation or a nation other than the United States'' for consistency in the revised title and with other titles of the United States Code. The words ''(including territory of undetermined sovereignty and the high seas)'' are omitted as surplus. In subclause (C), the words ''government of a foreign country'' are substituted for ''other nation'' for consistency in the revised title and with other titles of the Code.

Clause (4) is derived from the source provisions of the chapter and is included to avoid repeating the phrase ''territory (including Alaska) outside the continental limits of the United States''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 App. section 474.

§ 47302. Providing airport and airway property in foreign territories

(a) GENERAL AUTHORITY.—Subject to the concurrence of the Secretary of State and the consideration of objectives of the International Civil Aviation Organization—

(1) the Secretary of Transportation may acquire, establish, and construct airport property and airway property (except meteorological facilities) in foreign territory; and

(2) the Secretary of Commerce may acquire, establish, and construct meteorological facilities in foreign territory.

(b) SPECIFIC APPROPRIATIONS REQUIRED.—Except for airport property transferred under section 47304(b) of this title, an airport (as defined in section 40102(a) of this title) may be acquired, established, or constructed under subsection (a) of this section only if amounts have been appropriated specifically for the airport.

(c) ACCEPTING FOREIGN PAYMENTS.—The Secretary of Transportation or Commerce, as appropriate, may accept payment from a government of a foreign country or international organization for facilities or services sold or provided the government or organization under this chapter. The amount received may be credited to the appropriation current when the expenditures are or were paid, the appropriation current when the amount is received, or both.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1281.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47302(a), (b)	49 App.:1152.	June 16, 1948, ch. 473, § 3, 62 Stat. 451; Aug. 23, 1958, Pub. L. 85–726, § 1403, 72 Stat. 808.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444.
47302(c)	49 App.:1154.	June 16, 1948, ch. 473, § 5, 62 Stat. 451.
	49 App.:1655(c)(1).	

In this chapter, the words ''government of a foreign country'' are substituted for ''foreign government'' for consistency in the revised title and with other titles of the United States Code.

In this section, the title ''Secretary of Commerce'' is substituted for ''Chief of the Weather Bureau of the Department of Commerce'' in section 3, and ''Chief of the Weather Bureau'' in section 5, of the International Aviation Facilities Act (ch. 473, 62 Stat. 451) because of sections 1 and 2 of Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318).

In subsection (a), the words ''by contract or otherwise'' are omitted as surplus. The words ''airport property and airway property (except meteorological facilities)'' and ''meteorological facilities'' are substituted for ''within their respective fields'' for clarity.

In subsection (b), the words ''for the airport'' are substituted for ''for such purpose'' for clarity. The words ''by the Congress'' are omitted as surplus.

In subsection (c), the words ''on behalf of the United States'' are omitted as surplus. The words ''sold or provided'' are substituted for ''supplied or . . . performed''

for consistency in this chapter. The words ''by the Secretary of Transportation or the Secretary of Commerce, either directly or indirectly'' and ''the authority of'' are omitted as surplus. The words ''or the Civil Aeronautics Act of 1938, as amended'' are omitted as obsolete because the Act was repealed by section 1401(b) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 806). The words ''including the operation of airport property and airway property in such countries, the training of foreign nationals, the rendering of technical assistance and advice to such countries, and the performance of other similar services'' are omitted as being included in ''facilities or services sold or provided''. The words ''or both'' are substituted for ''or (C) in part as provided under clause (A) and in part as provided under clause (B)'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47304 of this title.

§ 47303. Training foreign citizens

Subject to the concurrence of the Secretary of State, the Secretary of Transportation or Commerce, as appropriate, may train a foreign citizen in a subject related to aeronautics and essential to the orderly and safe operation of civil aircraft. The training may be provided—

(1) directly by the appropriate Secretary or jointly with another department, agency, or instrumentality of the United States Government;

(2) through a public or private agency of the United States (including a State or municipal educational institution); or

(3) through an international organization.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1281.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47303	49 App.:1153.	June 16, 1948, ch. 473, §4, 62 Stat. 451.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

In this section, before clause (1), the title ''Secretary of Commerce'' is substituted for ''Chief of the Weather Bureau'' in section 4 of the International Aviation Facilities Act (ch. 473, 62 Stat. 451) because of sections 1 and 2 of Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318). The words ''within or outside the United States'' are omitted as surplus. The word ''citizen'' is substituted for ''nationals'' as being more appropriate. In clause (1), the word ''jointly'' is substituted for ''or in conjunction'' to eliminate unnecessary words. The words ''department, agency, or instrumentality of the United States Government'' are substituted for ''United States Government agency'' for consistency in the revised title and with other titles of the United States Code.

§ 47304. Transfer of airport and airway property

(a) GENERAL AUTHORITY.—When requested by the government of a foreign country or an international organization, the Secretary of Transportation or Commerce, as appropriate, may transfer to the government or organization airport property and airway property operated and maintained under this chapter by the appropriate Secretary in foreign territory. The transfer shall be on terms the appropriate Secretary considers proper, including consideration agreed on through negotiations with the government or organization.

(b) PROPERTY INSTALLED OR CONTROLLED BY MILITARY.—Subject to terms to which the parties agree, the Secretary of a military department may transfer without charge to the Secretary of Transportation airport property and airway property (except meteorological facilities), and to the Secretary of Commerce meteorological facilities, that the Secretary of the military department installed or controls in territory outside the continental United States. The transfer may be made if consistent with the needs of national defense and—

(1) the Secretary of the military department finds that the property or facility is no longer required exclusively for military purposes; and

(2) the Secretary of Transportation or Commerce, as appropriate, decides that the transfer is or may be necessary to carry out this chapter.

(c) REPUBLIC OF PANAMA.—(1) The Secretary of Transportation may provide, operate, and maintain facilities and services for air navigation, airway communications, and air traffic control in the Republic of Panama subject to—

(A) the approval of the Secretary of Defense; and

(B) each obligation assumed by the United States Government under an agreement between the Government and the Republic of Panama.

(2) The Secretary of a military department may transfer without charge to the Secretary of Transportation property located in the Republic of Panama when the Secretary of Transportation decides that the transfer may be useful in carrying out this chapter.

(3) Subsection (b) of this section (related to the Secretary of Transportation) and section 47302(a) and (b) of this title do not apply in carrying out this subsection.

(d) RETAKING PROPERTY FOR MILITARY REQUIREMENT.—(1) When necessary for a military requirement, the Secretary of a military department immediately may retake property (with any improvements to it) transferred by the Secretary under subsection (b) or (c) of this section. The Secretary shall pay reasonable compensation to each person (or its successor in interest) that made an improvement to the property that was not made at the expense of the Government. The Secretary or a delegate of the Secretary shall decide on the amount of compensation.

(2) On the recommendation of the Secretary of Transportation or Commerce, as appropriate, the Secretary of a military department may decide not to act under paragraph (1) of this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1281.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47304(a)	49 App.:1155.	June 16, 1948, ch. 473, §§6, 8(a), (b), 62 Stat. 452; Aug. 23, 1958, Pub. L. 85–726, §1403, 72 Stat. 808.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
47304(b)	49 App.:1157(a), (b). 49 App.:1655(c)(1).	
47304(c)(1) ..	49 App.:1156(a), (b). 49 App.:1655(c)(1).	June 16, 1948, ch. 473, §§7, 9, 62 Stat. 452, 453.
47304(c)(2) ..	49 App.:1156(c). 49 App.:1655(c)(1).	
47304(c)(3) ..	49 App.:1156(d).	
47304(d)	49 App.:1158. 49 App.:1655(c)(1).	

In this section, the title ''Secretary of Commerce'' is substituted for ''Chief of the Weather Bureau'' in sections 6, 8, and 9 of the International Aviation Facilities Act (ch. 473, 62 Stat. 452) because of sections 1 and 2 of Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318).

In subsection (a), the words ''including consideration agreed on'' are substituted for ''including provision for receiving, on behalf of the United States, such payment or other consideration for the property so transferred as may be agreed upon'' to eliminate unnecessary words.

In subsections (b) and (c), the words ''Secretary of a military department'' are substituted for ''National Military Establishment'' (subsequently changed to ''department of the Department of Defense'' because of section 12(a) of the National Security Act Amendments of 1949 (ch. 412, 63 Stat. 591)) because of 5:102 and 10:101.

In subsection (b), before clause (1), the words ''if any, as may be . . . in specific cases'', ''at its discretion'', and ''therefor'' are omitted as surplus. The word ''except'' is substituted for ''exclusive of'' for consistency in this chapter. The word ''controls'' is substituted for ''in the possession of'' for clarity. The word ''considered'' is omitted as surplus. In clause (2), the words ''the purposes of'' are omitted as surplus.

In subsection (c), reference to the Canal Zone is omitted because of the Panama Canal Treaty of 1977.

In subsection (c)(1), before clause (A), the words ''and to do all things necessary in connection with the'' are omitted as surplus. The word ''airway'' is added for consistency in this chapter. In clause (B), the words ''treaty, convention, or'' are omitted as surplus.

In subsection (c)(2), the words ''in its discretion'', ''therefor'', ''airport property or airway property or other real or personal'', and ''the purposes of'' are omitted as surplus.

In subsection (d)(1), the words ''as determined by the Secretary of the department which made the transfer'' are omitted as surplus. The words ''(with any improvements to it)'' are substituted for ''together with any improvements or additions made thereto'' to eliminate unnecessary words. The words ''or persons'' are omitted because of 1:1.

In subsection (d)(2), the words ''decide not to act'' are substituted for ''in any case . . . waive any right or privilege conferred or reserved'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47302 of this title.

§ 47305. Administrative

(a) GENERAL AUTHORITY.—The Secretary of Transportation shall consolidate, operate, protect, maintain, and improve airport property and airway property (except meteorological facilities), and the Secretary of Commerce may consolidate, operate, protect, maintain, and improve meteorological facilities, that the appropriate Secretary has acquired and that are located in territory outside the continental United States. In carrying out this section, the appropriate Secretary may—

(1) adapt the property or facility to the needs of civil aeronautics;

(2) lease the property or facility for not more than 20 years;

(3) make a contract, or provide directly, for facilities and services;

(4) make reasonable charges for aeronautical services; and

(5) acquire an interest in property.

(b) CREDITING APPROPRIATIONS.—Money received from the direct sale or charge that the Secretary of Transportation or Commerce, as appropriate, decides is equivalent to the cost of facilities and services sold or provided under subsection (a)(3) and (4) of this section is credited to the appropriation from which the cost was paid. The balance shall be deposited in the Treasury as miscellaneous receipts.

(c) USING OTHER GOVERNMENT FACILITIES AND SERVICES.—To carry out this chapter and to use personnel and facilities of the United States Government most advantageously and without unnecessary duplication, the Secretary of Transportation or Commerce, as appropriate, shall request, when practicable, to use a facility or service of an appropriate department, agency, or instrumentality of the Government on a reimbursable basis. A department, agency, or instrumentality receiving a request under this section may provide the facility or service.

(d) ADVERTISING NOT REQUIRED.—Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply to a lease or contract made by the Secretary of Transportation or Commerce under this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1282.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47305(a)	49 App.:1159(a) (1st sentence), (b).	June 16, 1948, ch. 473, §10(a) (1st sentence), (b)–(d), 62 Stat. 453, 454.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
47305(b)	49 App.:1159(c). 49 App.:1655(c)(1).	
47305(c)	49 App.:1160.	June 16, 1948, ch. 473, §12, 62 Stat. 454; Aug. 23, 1958, Pub. L. 85–726, §1403, 72 Stat. 808; Jan. 3, 1975, Pub. L. 93–623, §3, 88 Stat. 2103.
	49 App.:1655(c)(1).	
47305(d)	49 App.:1159(d). 49 App.:1655(c)(1).	

In this section, the title ''Secretary of Commerce'' is substituted for ''Chief of the Weather Bureau'' in section 10(b)–(d), and for ''Chief of the Weather Bureau'' and ''Weather Bureau'' in section 12, of the International Aviation Facilities Act (ch. 473, 62 Stat. 454) because of sections 1 and 2 of Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318).

In subsection (a), before clause (1), the words ''do and perform, by contract or otherwise, all acts and things necessary or incident to'' and ''pursuant to this chapter or any other provision of law'' are omitted as surplus. In clause (1), the words ''from time to time'' and ''by construction, installation, reengineering, relocation, or otherwise'' are omitted as surplus. The text of 49 App.:1159(a)(2) is omitted as surplus because of 49:322(a). In clause (2), the words ''under such conditions as he

may deem proper'' and ''space or'' are omitted as surplus. The words ''for not more than 20 years'' are substituted for ''and for such periods as may be desirable (not to exceed twenty years)'' to eliminate unnecessary words. The words ''for purposes essential or appropriate to their consolidation, operation, protection, and administration under this chapter'' are omitted as surplus. In clause (3), the words ''the sale of fuel, oil, equipment, food and supplies, hotel accommodations, and other'' and ''necessary or desirable for the operation and administration of such properties'' are omitted as surplus. In clause (4), the word ''reasonable'' is substituted for ''just and reasonable'' for consistency in the revised title and with other titles of the United States Code. The words ''(including but not limited to landing fees and fees for the use of communication services)'' are omitted as surplus. In clause (5), the words ''by purchase or otherwise, real or personal'' and ''which he may consider necessary for the purposes of this section'' are omitted as surplus.

In subsection (b), the words ''including handling charges'' are omitted as surplus. The words ''facilities and services sold or provided'' are substituted for ''of the fuel, oil, equipment, food, supplies, services, shelter, or other assistance or services sold or furnished'' for consistency and to eliminate unnecessary words. The words ''under subsection (a)(3) and (4) of this section'' are added for clarity. The words ''if any'' are omitted as surplus. The words ''deposited in the Treasury as'' are substituted for ''credited to'' for clarity and consistency in the revised title and with other titles of the Code.

In subsection (c), the words ''use personnel and facilities of the United States Government most advantageously and without unnecessary duplication'' are substituted for ''to the end that personnel and facilities of existing United States Government agencies shall be utilized to the fullest possible advantage and not be unnecessarily duplicated'' to eliminate unnecessary words. The word ''request'' is substituted for ''arrange for'' for clarity. The words ''department, agency, or instrumentality of the Government'' are substituted for ''other United States Government agencies'' for consistency in the revised title and with other titles of the Code. The words ''on a reimbursable basis'' are substituted for ''and to reimburse any such agency for such service out of funds appropriated to the Department of Transportation or the Department of Commerce, as the case may be'' to eliminate unnecessary words.

ANNETTE ISLAND AIRPORT, ALASKA; RENEWAL OF LEASE

Act May 9, 1956, ch. 241, 70 Stat. 146, provided: ''That the Congress of the United States hereby approves the extension, from year to year, until June 30, 1999, of a lease of certain land comprising part of Annette Island, Alaska, for use by the Civil Aeronautics Administration [now the Federal Aviation Administration] as an airport, entered into by the United States of America and the Council of the Annette Island Reserve on December 13, 1948, section 5 of which lease provides that no renewal thereof shall extend beyond June 30, 1959, unless approved by Congress.''

§ 47306. Criminal penalty

A person that knowingly and willfully violates a regulation prescribed by the Secretary of Transportation to carry out this chapter shall be fined under title 18, imprisoned for not more than 6 months, or both.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1283.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47306	49 App.:1159(a) (last sentence). 49 App.:1655(c)(1).	June 16, 1948, ch. 473, §10(a) (last sentence), 62 Stat. 454. Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

The word ''prescribed'' is substituted for ''issued'' for consistency in the revised title and with other titles of the United States Code. The words ''if such violation is committed in any area under the civil jurisdiction of the United States'' are omitted as surplus. The words ''fined under title 18'' are substituted for ''a fine of not more than $500'', and the words ''be deemed guilty of a misdemeanor'' are omitted, for consistency with title 18.

CHAPTER 475—NOISE

SUBCHAPTER I—NOISE ABATEMENT

Sec.
47501. Definitions.
47502. Noise measurement and exposure systems and identifying land use compatible with noise exposure.
47503. Noise exposure maps.
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47505. Airport noise compatibility planning grants.
47506. Limitations on recovering damages for noise.
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SUBCHAPTER II—NATIONAL AVIATION NOISE POLICY

47521. Findings.
47522. Definitions.
47523. National aviation noise policy.
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47528. Prohibition on operating certain aircraft not complying with stage 3 noise levels.
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47532. Judicial review.
47533. Relationship to other laws.

AMENDMENTS

1994—Pub. L. 103–429, §6(72)(B), Oct. 31, 1994, 108 Stat. 4388, added item 47510.

Pub. L. 103–305, title III, §308(b), Aug. 23, 1994, 108 Stat. 1594, added item 47509.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 47108 of this title.

SUBCHAPTER I—NOISE ABATEMENT

§ 47501. Definitions

In this subchapter—

(1) ''airport'' means a public-use airport as defined in section 47102 of this title.

(2) ''airport operator'' means—

(A) for an airport serving air carriers that have certificates from the Secretary of Transportation, any person holding an airport operating certificate issued under section 44706 of this title; and

(B) for any other airport, the person operating the airport.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1284.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47501(1)	49 App.:2101(1).	Feb. 18, 1980, Pub. L. 96–193, § 101(1), 94 Stat. 50; restated Sept. 3, 1982, Pub. L. 97–248, § 524(b)(1), 96 Stat. 696; Dec. 30, 1987, Pub. L. 100–223, § 103(f), 101 Stat. 1489.
	49 App.:2101(3).	Feb. 18, 1980, Pub. L. 96–193, § 101(3), 94 Stat. 50.
47501(2)	49 App.:2101(2).	Feb. 18, 1980, Pub. L. 96–193, § 101(2), 94 Stat. 50; restated Sept. 3, 1982, Pub. L. 97–248, § 524(b)(2), 96 Stat. 696.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.

In this section, the words ''the term'' are omitted as surplus.

In clause (1), the text of 49 App.:2101(3) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

In clause (2), the word ''valid'' is omitted as surplus.

§ 47502. Noise measurement and exposure systems and identifying land use compatible with noise exposure

After consultation with the Administrator of the Environmental Protection Agency and United States Government, State, and interstate agencies that the Secretary of Transportation considers appropriate, the Secretary shall by regulation—

(1) establish a single system of measuring noise that—

(A) has a highly reliable relationship between projected noise exposure and surveyed reactions of individuals to noise; and

(B) is applied uniformly in measuring noise at airports and the surrounding area;

(2) establish a single system for determining the exposure of individuals to noise resulting from airport operations, including noise intensity, duration, frequency, and time of occurrence; and

(3) identify land uses normally compatible with various exposures of individuals to noise.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1284.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47502	49 App.:2102.	Feb. 18, 1980, Pub. L. 96–193, § 102, 94 Stat. 50.

In this section, before clause (1), the words ''Not later than the last day of the twelfth month which begins after February 18, 1980'' are omitted as obsolete.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47503 of this title.

§ 47503. Noise exposure maps

(a) SUBMISSION AND PREPARATION.—An airport operator may submit to the Secretary of Transportation a noise exposure map showing the noncompatible uses in each area of the map on the date the map is submitted, a description of estimated aircraft operations during 1985, and how those operations will affect the map. The map shall—

(1) be prepared in consultation with public agencies and planning authorities in the area surrounding the airport; and

(2) comply with regulations prescribed under section 47502 of this title.

(b) REVISED MAPS.—If a change in the operation of an airport will establish a substantial new noncompatible use in an area surrounding the airport, the airport operator shall submit a revised noise exposure map to the Secretary showing the new noncompatible use.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1284.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47503(a)	49 App.:2103(a)(1).	Feb. 18, 1980, Pub. L. 96–193, § 103(a), 94 Stat. 50.
47503(b)	49 App.:2103(a)(2).	

In subsection (a), before clause (1), the words ''After the effective date of the regulations promulgated in accordance with section 2102 of this Appendix'' are omitted as executed. The words ''of an airport'' and ''at such airport'' are omitted as surplus. The word ''how'' is substituted for ''the ways, if any, in which'' to eliminate unnecessary words. In clause (1), the words ''planning authorities'' are substituted for ''planning agencies'' for consistency.

In subsection (b), the words ''to the Secretary'' are added for clarity. The words ''after the submission to the Secretary of a noise exposure map under paragraph (1)'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47504, 47505, 47506, 47507 of this title.

§ 47504. Noise compatibility programs

(a) SUBMISSIONS.—(1) An airport operator that submitted a noise exposure map and related information under section 47503(a) of this title may submit a noise compatibility program to the Secretary of Transportation after—

(A) consulting with public agencies and planning authorities in the area surrounding the airport, United States Government officials having local responsibility for the airport, and air carriers using the airport; and

(B) notice and an opportunity for a public hearing.

(2) A program submitted under paragraph (1) of this subsection shall state the measures the operator has taken or proposes to take to reduce existing noncompatible uses and prevent introducing additional noncompatible uses in the area covered by the map. The measures may include—

(A) establishing a preferential runway system;

(B) restricting the use of the airport by a type or class of aircraft because of the noise characteristics of the aircraft;

(C) constructing barriers and acoustical shielding and soundproofing public buildings;

(D) using flight procedures to control the operation of aircraft to reduce exposure of individuals to noise in the area surrounding the airport; and

(E) acquiring land, air rights, easements, development rights, and other interests to ensure that the property will be used in ways compatible with airport operations.

(b) APPROVALS.—(1) The Secretary shall approve or disapprove a program submitted under subsection (a) of this section (except as the program is related to flight procedures referred to in subsection (a)(2)(D) of this section) not later than 180 days after receiving it. The Secretary shall approve the program (except as the program is related to flight procedures referred to in subsection (a)(2)(D)) if the program—

(A) does not place an unreasonable burden on interstate or foreign commerce;

(B) is reasonably consistent with achieving the goal of reducing noncompatible uses and preventing the introduction of additional noncompatible uses; and

(C) provides for necessary revisions because of a revised map submitted under section 47503(b) of this title.

(2) A program (except as the program is related to flight procedures referred to in subsection (a)(2)(D) of this section) is deemed to be approved if the Secretary does not act within the 180-day period.

(3) The Secretary shall submit any part of a program related to flight procedures referred to in subsection (a)(2)(D) of this section to the Administrator of the Federal Aviation Administration. The Administrator shall approve or disapprove that part of the program.

(c) GRANTS.—(1) The Secretary may incur obligations to make grants from amounts available under section 48103 of this title to carry out a project under a part of a noise compatibility program approved under subsection (b) of this section. A grant may be made to—

(A) an airport operator submitting the program; and

(B) a unit of local government in the area surrounding the airport, if the Secretary decides the unit is able to carry out the project.

(2) SOUNDPROOFING AND ACQUISITION OF CERTAIN RESIDENTIAL BUILDINGS AND PROPERTIES.—The Secretary may incur obligations to make grants from amounts made available under section 48103 of this title—

(A) for projects to soundproof residential buildings—

(i) if the airport operator received approval for a grant for a project to soundproof residential buildings pursuant to section 301(d)(4)(B) of the Airport and Airway Safety and Capacity Expansion Act of 1987;

(ii) if the airport operator submits updated noise exposure contours, as required by the Secretary; and

(iii) if the Secretary determines that the proposed projects are compatible with the purposes of this chapter;

(B) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to soundproof residential buildings located on residential properties, and to acquire residential properties, at which noise levels are not compatible with normal operations of an airport—

(i) if the airport operator amended an existing local aircraft noise regulation during calendar year 1993 to increase the maximum permitted noise levels for scheduled air carrier aircraft as a direct result of implementation of revised aircraft noise departure procedures mandated for aircraft safety purposes by the Administrator of the Federal Aviation Administration for standardized application at airports served by scheduled air carriers;

(ii) if the airport operator submits updated noise exposure contours, as required by the Secretary; and

(iii) if the Secretary determines that the proposed projects are compatible with the purposes of this chapter;

(C) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to carry out any part of a program developed before February 18, 1980, or before implementing regulations were prescribed, if the Secretary decides the program is substantially consistent with reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses and the purposes of this chapter will be furthered by promptly carrying out the program; and

(D) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to soundproof a building in the noise impact area surrounding the airport that is used primarily for educational or medical purposes and that the Secretary decides is adversely affected by airport noise.

(3) An airport operator may agree to make a grant made under paragraph (1)(A) of this subsection available to a public agency in the area surrounding the airport if the Secretary decides the agency is able to carry out the project.

(4) The Government's share of a project for which a grant is made under this subsection is the greater of—

(A) 80 percent of the cost of the project; or

(B) the Government's share that would apply if the amounts available for the project were made available under subchapter I of chapter 471 of this title for a project at the airport.

(5) The provisions of subchapter I of chapter 471 of this title related to grants apply to a grant made under this chapter, except—

(A) section 47109(a) and (b) of this title; and

(B) any provision that the Secretary decides is inconsistent with, or unnecessary to carry out, this chapter.

(d) GOVERNMENT RELIEF FROM LIABILITY.—The Government is not liable for damages from aviation noise because of action taken under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1285; Pub. L. 103–305, title I, § 119, Aug. 23, 1994, 108 Stat. 1580; Pub. L. 103–429, § 6(71), Oct. 31, 1994, 108 Stat. 4387.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47504(a)	49 App.:2104(a).	Feb. 18, 1980, Pub. L. 96–193, § 104(a), 94 Stat. 51; Dec. 30, 1987, Pub. L. 100–223, § 301(a), 101 Stat. 1523.
47504(b)	49 App.:2104(b).	Feb. 18, 1980, Pub. L. 96–193, § 104(b), (d), 94 Stat. 52, 53.
47504(c)	49 App.:2104(c).	Feb. 18, 1980, Pub. L. 96–193, § 104(c), 94 Stat. 52; Sept. 3, 1982, Pub. L. 97–248, § 524(b)(4), 96 Stat. 696; Dec. 30, 1987, Pub. L. 100–223, § 301(b), (c), 101 Stat. 1523; Oct. 28, 1991, Pub. L. 102–143, § 336, 105 Stat. 947.
47504(d)	49 App.:2104(d).	

In subsection (a)(1)(A), the words ''the officials of'' are omitted as surplus. The words ''planning authorities'' are substituted for ''planning agencies'' for consistency.

In subsection (a)(2)(A), the word ''establishing'' is substituted for ''the implementation of'' for consistency.

In subsection (a)(2)(B), the words ''the implementation of'' are omitted as surplus.

In subsection (b)(1), before clause (A), the words ''to him'' and ''the measures to be undertaken in carrying out'' are omitted as surplus. In clause (B), the word ''achieving'' is substituted for ''obtaining'' for clarity. The word ''existing'' is omitted as surplus.

Subsection (b)(2) is substituted for 49 App.:2104(b) (3d sentence) to eliminate unnecessary words.

In subsection (c)(1)(B) and (2), the words ''for which grant applications are made in accordance with such noise compatibility programs'' are omitted as surplus.

In subsection (c)(1), before clause (A), the words ''incur obligations to'' and ''further . . . under this section'' are omitted as surplus. In clause (C), the words ''to carry out any part of a program'' are substituted for ''any project to carry out a noise compatibility program'', and the words ''or before implementing regulations were prescribed'' are substituted for ''or the promulgation of its implementing regulations'', for clarity and consistency. The words ''the purposes of'' before ''reducing'' are omitted as surplus. The word ''noncompatible'' is added after ''existing'' for clarity and consistency. In clause (D), the words ''for any project'' and ''determined to be'' are omitted as surplus.

In subsection (c)(2), the words ''in turn'' are omitted as surplus.

In subsection (c)(4), before clause (A), the words ''All of'' and ''made under section 505 of that Act'' are omitted as surplus. The word ''except'' is substituted for ''unless'' for clarity. In clause (1), the words ''relating to United States share of project costs'' are omitted as surplus. In clause (2), the words ''the purposes of'' are omitted as surplus.

In subsection (d), the words ''by the Secretary or the Administrator of the Federal Aviation Administration'' are omitted as surplus.

PUB. L. 103–429

This redesignates 49:47504(c)(1)(C) and (D) as 49:47504(c)(2)(C) and (D) because the subject matter is similar to that of 49:47504(c)(2)(A) and (B) that was added by section 119(2) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1580).

REFERENCES IN TEXT

Section 301(d)(4)(B) of the Airport and Airway Safety and Capacity Expansion Act of 1987, referred to in subsec. (c)(2)(A)(i), is section 301(d)(4)(B) of Pub. L. 100–223, which was set out as a note under section 2104 of former Title 49, Transportation, prior to repeal by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379.

AMENDMENTS

1994—Subsec. (c)(1)(A). Pub. L. 103–429, § 6(71)(A), inserted ''and'' after semicolon at end.

Subsec. (c)(1)(B). Pub. L. 103–429, § 6(71)(B), substituted a period for semicolon at end.

Subsec. (c)(1)(C), (D). Pub. L. 103–429, § 6(71)(C), redesignated par. (1)(C) as (2)(C) and (1)(D) as (2)(D).

Subsec. (c)(2). Pub. L. 103–305, § 119(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (c)(2)(A)(iii). Pub. L. 103–429, § 6(71)(D), struck out ''and'' after semicolon at end.

Subsec. (c)(2)(B)(iii). Pub. L. 103–429, § 6(71)(E), substituted a semicolon for period at end.

Subsec. (c)(2)(C), (D). Pub. L. 103–429, § 6(71)(F), substituted ''to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection'' for ''an airport operator or unit of local government referred to in clause (A) or (B) of this paragraph''.

Pub. L. 103–429, § 6(71)(C), redesignated par. (1)(C) as (2)(C) and (1)(D) as (2)(D).

Subsec. (c)(3). Pub. L. 103–305, § 119(1), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (c)(4). Pub. L. 103–305, § 119(3), struck out ''paragraph (1) of'' before ''this subsection'' in introductory provisions.

Pub. L. 103–305, § 119(1), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (c)(5). Pub. L. 103–305, § 119(1), redesignated par. (4) as (5).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 40117, 47115, 47117, 47505, 48103 of this title.

§ 47505. Airport noise compatibility planning grants

(a) GENERAL AUTHORITY.—The Secretary of Transportation may make a grant to a sponsor of an airport to develop, for planning purposes, information necessary to prepare and submit—

(1) a noise exposure map and related information under section 47503 of this title, including the cost of obtaining the information; or

(2) a noise compatibility program under section 47504 of this title.

(b) AVAILABILITY OF AMOUNTS AND GOVERNMENT'S SHARE OF COSTS.—A grant under subsection (a) of this section may be made from amounts available under section 48103 of this title. The United States Government's share of the grant is the percent for which a project for airport development at an airport would be eligible under section 47109(a) and (b) of this title.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1286.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47505	49 App.:2103(b).	Feb. 18, 1980, Pub. L. 96–193, § 103(b), 94 Stat. 51; restated Sept. 3, 1982, Pub. L. 97–248, § 524(b)(3), 96 Stat. 696.

In subsection (a), before clause (1), the words ''incur obligations to'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40117, 47115, 47117, 48103 of this title.

§ 47506. Limitations on recovering damages for noise

(a) GENERAL LIMITATIONS.—A person acquiring an interest in property after February 18, 1980, in an area surrounding an airport for which a noise exposure map has been submitted under section 47503 of this title and having actual or constructive knowledge of the existence of the map may recover damages for noise attributable to the airport only if, in addition to any other elements for recovery of damages, the person shows that—

(1) after acquiring the interest, there was a significant—

(A) change in the type or frequency of aircraft operations at the airport;

(B) change in the airport layout;

(C) change in flight patterns; or

(D) increase in nighttime operations; and

(2) the damages resulted from the change or increase.

(b) CONSTRUCTIVE KNOWLEDGE.—Constructive knowledge of the existence of a map under subsection (a) of this section shall be imputed, at a minimum, to a person if—

(1) before the person acquired the interest, notice of the existence of the map was published at least 3 times in a newspaper of general circulation in the county in which the property is located; or

(2) the person is given a copy of the map when acquiring the interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1286.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47506	49 App.:2107.	Feb. 18, 1980, Pub. L. 96–193, §107, 94 Stat. 53.

In subsection (a)(2), the words ''for which recovery is sought have'' are omitted as surplus.

§ 47507. Nonadmissibility of noise exposure map and related information as evidence

No part of a noise exposure map or related information described in section 47503 of this title that is submitted to, or prepared by, the Secretary of Transportation and no part of a list of land uses the Secretary identifies as normally compatible with various exposures of individuals to noise may be admitted into evidence or used for any other purpose in a civil action asking for relief for noise resulting from the operation of an airport.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1287.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47507	49 App.:2106.	Feb. 18, 1980, Pub. L. 96–193, §106, 94 Stat. 53.

The words ''land uses which are'' are omitted as surplus. The words ''civil action'' are substituted for ''suit or action'' for consistency in the revised title and with other titles of the United States Code. The words ''damages or other'' are omitted as surplus.

§ 47508. Noise standards for air carriers and foreign air carriers providing foreign air transportation

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall require each air carrier and foreign air carrier providing foreign air transportation to comply with noise standards—

(1) the Secretary prescribed for new subsonic aircraft in regulations of the Secretary in effect on January 1, 1977; or

(2) of the International Civil Aviation Organization that are substantially compatible with standards of the Secretary for new subsonic aircraft in regulations of the Secretary at parts 36 and 91 of title 14, Code of Federal Regulations, prescribed between January 2, 1977, and January 1, 1982.

(b) COMPLIANCE AT PHASED RATE.—The Secretary shall require each air carrier and foreign air carrier providing foreign air transportation to comply with the noise standards at a phased rate similar to the rate for aircraft registered in the United States.

(c) NONDISCRIMINATION.—The requirement for air carriers providing foreign air transportation may not be more stringent than the requirement for foreign air carriers.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1287.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47508(a)	49 App.:2122(a) (1st sentence words before last comma, last sentence).	Feb. 18, 1980, Pub. L. 96–193, §302(a), 94 Stat. 56.
47508(b)	49 App.:2122(a) (1st sentence words after last comma).	
47508(c)	49 App.:2122(a) (2d sentence).	

In this section, the word ''providing'' is substituted for ''engaging in'' for consistency in the revised title.

In subsection (a), the words ''acting through the Administrator'' and ''acting through the Administrator of the Federal Aviation Administration (14 CFR part 36)'' are omitted for consistency. Section 6(c)(1) of the Department of Transportation Act (Public Law 89–670, 80 Stat. 938) transferred all duties and powers of the Federal Aviation Agency and the Administrator to the Secretary of Transportation. However, the Secretary was to carry out certain provisions through the Administrator. In addition, various laws enacted since then have vested duties and powers in the Administrator. All provisions of law the Secretary is required to carry out through the Administrator are included in 49:106(g). Before clause (1), the words ''If, by January 1, 1980, the International Civil Aviation Organization (hereafter referred to as 'ICAO') does not reach an agreement'' and ''commence a rulemaking to'' and 49 App.:2122(a) (last sentence) are omitted as executed. In clause (1), the words ''as such regulations were'' are omitted as surplus. In clause (2), the words ''on noise standards and an international schedule'' and ''(annex 16)'' are omitted as surplus. The words ''of the Secretary for new subsonic aircraft in regulations of the Secretary at parts 36 and 91 of title 14, Code of Federal Regulations, prescribed between January 2, 1977, and January 1, 1982'' are substituted for ''set forth in such regulations issued by the Secretary (14 CFR parts 36 and 91) during the 5-year period thereafter'' for clarity and consistency.

In subsection (b), the words ''in effect'' are omitted as surplus.

AIRCRAFT NOISE RESEARCH PROGRAM

Pub. L. 102–581, title III, § 304, Oct. 31, 1992, 106 Stat. 4896, provided that:

''(a) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall jointly conduct a research program to develop new technologies for quieter subsonic jet aircraft engines and airframes.

''(b) GOAL.—The goal of the research program established by subsection (a) is to develop by the year 2000 technologies for subsonic jet aircraft engines and airframes which would permit a subsonic jet aircraft to operate at reduced noise levels.

''(c) PARTICIPATION.—In carrying out the program established by subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall encourage the participation of representatives of the aviation industry and academia.

''(d) REPORT TO CONGRESS.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall jointly submit to Congress, on an annual basis during the term of the program established by subsection (a), a report on the progress being made under the program toward meeting the goal described in subsection (b).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 106 of this title.

§ 47509. Research program on quiet aircraft technology for propeller and rotor driven aircraft

(a) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall conduct a study to identify technologies for noise reduction of propeller driven aircraft and rotorcraft.

(b) GOAL.—The goal of the study conducted under subsection (a) is to determine the status of research and development now underway in the area of quiet technology for propeller driven aircraft and rotorcraft, including technology that is cost beneficial, and to determine whether a research program to supplement existing research activities is necessary.

(c) PARTICIPATION.—In conducting the study required under subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall encourage the participation of the Department of Defense, the Department of the Interior, the airtour industry, the aviation industry, academia and other appropriate groups.

(d) REPORT.—Not less than 280 days after August 23, 1994, the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall transmit to Congress a report on the results of the study required under subsection (a).

(e) RESEARCH AND DEVELOPMENT PROGRAM.—If the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration determine that additional research and development is necessary and would substantially contribute to the development of quiet aircraft technology, then the agencies shall conduct an appropriate research program in consultation with the entities listed in subsection (c) to develop safe, effective, and economical noise reduction technology (including technology that can be applied to existing propeller driven aircraft and rotorcraft) that would result in aircraft that operate at substantially reduced levels of noise to reduce the impact of such aircraft and rotorcraft on the resources of national parks and other areas.

(Added Pub. L. 103–305, title III, § 308(a), Aug. 23, 1994, 108 Stat. 1593; amended Pub. L. 104–287, § 5(86), Oct. 11, 1996, 110 Stat. 3398.)

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–287 substituted ''August 23, 1994'' for ''the date of the enactment of this section''.

§ 47510. Tradeoff allowance

Notwithstanding another law or a regulation prescribed or order issued under that law, the tradeoff provisions contained in appendix C of part 36 of title 14, Code of Federal Regulations, apply in deciding whether an aircraft complies with subpart I of part 91 of title 14.

(Added Pub. L. 103–429, § 6(72)(A), Oct. 31, 1994, 108 Stat. 4387.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47510	49 App.:2125.	Feb. 18, 1980, Pub. L. 96–193, § 305, 94 Stat. 57.

The word ''prescribed'' is added for consistency in the revised title and with other titles of the United States Code. The words ''subpart I of part 91'' are substituted for ''subpart E of part 91'' because of the restatement of part 91. See 54 Fed. Reg. 34321 (Aug. 18, 1989).

SUBCHAPTER II—NATIONAL AVIATION NOISE POLICY

§ 47521. Findings

Congress finds that—

(1) aviation noise management is crucial to the continued increase in airport capacity;

(2) community noise concerns have led to uncoordinated and inconsistent restrictions on aviation that could impede the national air transportation system;

(3) a noise policy must be carried out at the national level;

(4) local interest in aviation noise management shall be considered in determining the national interest;

(5) community concerns can be alleviated through the use of new technology aircraft and the use of revenues, including those available from passenger facility fees, for noise management;

(6) revenues controlled by the United States Government can help resolve noise problems and carry with them a responsibility to the national airport system;

(7) revenues derived from a passenger facility fee may be applied to noise management and increased airport capacity; and

(8) a precondition to the establishment and collection of a passenger facility fee is the prescribing by the Secretary of Transportation of a regulation establishing procedures for reviewing airport noise and access restrictions on operations of stage 2 and stage 3 aircraft.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1287.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47521	49 App.:2151.	Nov. 5, 1990, Pub. L. 101–508, §9302, 104 Stat. 1388–378.

§ 47522. Definitions

In this subchapter—

(1) ''air carrier'', ''air transportation'', and ''United States'' have the same meanings given those terms in section 40102(a) of this title.

(2) ''stage 3 noise levels'' means the stage 3 noise levels in part 36 of title 14, Code of Federal Regulations, in effect on November 5, 1990.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1288.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47522	49 App.:2157(h).	Nov. 5, 1990, Pub. L. 101–508, §9308(h), 104 Stat. 1388–384.

The definitions are made applicable to all of subchapter II, rather than only to those provisions based on 49 App.:2157 as in the source provisions, because the defined terms appear in several sections of subchapter II and it is assumed they are intended to have the same meaning in each of those sections.

§ 47523. National aviation noise policy

(a) GENERAL REQUIREMENTS.—Not later than July 1, 1991, the Secretary of Transportation shall establish by regulation a national aviation noise policy that considers this subchapter, including the phaseout and nonaddition of stage 2 aircraft as provided in this subchapter and dates for carrying out that policy and reporting requirements consistent with this subchapter and law existing as of November 5, 1990.

(b) DETAILED ECONOMIC ANALYSIS.—The policy shall be based on a detailed economic analysis of the impact of the phaseout date for stage 2 aircraft on competition in the airline industry, including—

(1) the ability of air carriers to achieve capacity growth consistent with the projected rate of growth for the airline industry;

(2) the impact of competition in the airline and air cargo industries;

(3) the impact on nonhub and small community air service; and

(4) the impact on new entry into the airline industry.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1288.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47523	49 App.:2152.	Nov. 5, 1990, Pub. L. 101–508, §9303, 104 Stat. 1388–378.

In this section, the text of 49 App.:2152(c) is omitted as executed.

In subsection (a), the words ''(hereinafter in this chapter referred to as the 'Secretary')'' are omitted because of the restatement. The words ''this subchapter'' (the first time they appear) are substituted for ''the findings, determinations, and provisions of this chapter'' to eliminate unnecessary words.

Subsection (b) is tabulated for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47524 of this title.

§ 47524. Airport noise and access restriction review program

(a) GENERAL REQUIREMENTS.—The national aviation noise policy established under section 47523 of this title shall provide for establishing by regulation a national program for reviewing airport noise and access restrictions on the operation of stage 2 and stage 3 aircraft. The program shall provide for adequate public notice and opportunity for comment on the restrictions.

(b) STAGE 2 AIRCRAFT.—Except as provided in subsection (d) of this section, an airport noise or access restriction may include a restriction on the operation of stage 2 aircraft proposed after October 1, 1990, only if the airport operator publishes the proposed restriction and prepares and makes available for public comment at least 180 days before the effective date of the proposed restriction—

(1) an analysis of the anticipated or actual costs and benefits of the existing or proposed restriction;

(2) a description of alternative restrictions;

(3) a description of the alternative measures considered that do not involve aircraft restrictions; and

(4) a comparison of the costs and benefits of the alternative measures to the costs and benefits of the proposed restriction.

(c) STAGE 3 AIRCRAFT.—(1) Except as provided in subsection (d) of this section, an airport noise or access restriction on the operation of stage 3 aircraft not in effect on October 1, 1990, may become effective only if the restriction has been agreed to by the airport proprietor and all aircraft operators or has been submitted to and approved by the Secretary of Transportation after an airport or aircraft operator's request for approval as provided by the program established under this section. Restrictions to which this paragraph applies include—

(A) a restriction on noise levels generated on either a single event or cumulative basis;

(B) a restriction on the total number of stage 3 aircraft operations;

(C) a noise budget or noise allocation program that would include stage 3 aircraft;

(D) a restriction on hours of operations; and

(E) any other restriction on stage 3 aircraft.

(2) Not later than 180 days after the Secretary receives an airport or aircraft operator's request

for approval of an airport noise or access restriction on the operation of a stage 3 aircraft, the Secretary shall approve or disapprove the restriction. The Secretary may approve the restriction only if the Secretary finds on the basis of substantial evidence that—

(A) the restriction is reasonable, nonarbitrary, and nondiscriminatory;

(B) the restriction does not create an unreasonable burden on interstate or foreign commerce;

(C) the restriction is not inconsistent with maintaining the safe and efficient use of the navigable airspace;

(D) the restriction does not conflict with a law or regulation of the United States;

(E) an adequate opportunity has been provided for public comment on the restriction; and

(F) the restriction does not create an unreasonable burden on the national aviation system.

(3) Paragraphs (1) and (2) of this subsection do not apply if the Administrator of the Federal Aviation Administration, before November 5, 1990, has formed a working group (outside the process established by part 150 of title 14, Code of Federal Regulations) with a local airport operator to examine the noise impact of air traffic control procedure changes at the airport. However, if an agreement on noise reductions at that airport is made between the airport proprietor and one or more air carriers or foreign air carriers that constitute a majority of the carrier use of the airport, this paragraph applies only to a local action to enforce the agreement.

(4) The Secretary may reevaluate an airport noise or access restriction previously agreed to or approved under this subsection on request of an aircraft operator able to demonstrate to the satisfaction of the Secretary that there has been a change in the noise environment of the affected airport that justifies a reevaluation. The Secretary shall establish by regulation procedures for conducting a reevaluation. A reevaluation—

(A) shall be based on the criteria in paragraph (2) of this subsection; and

(B) may be conducted only after 2 years after a decision under paragraph (2) of this subsection has been made.

(d) NONAPPLICATION.—Subsections (b) and (c) of this section do not apply to—

(1) a local action to enforce a negotiated or executed airport noise or access agreement between the airport operator and the aircraft operators in effect on November 5, 1990;

(2) a local action to enforce a negotiated or executed airport noise or access restriction agreed to by the airport operator and the aircraft operators before November 5, 1990;

(3) an intergovernmental agreement including an airport noise or access restriction in effect on November 5, 1990;

(4) a subsequent amendment to an airport noise or access agreement or restriction in effect on November 5, 1990, that does not reduce or limit aircraft operations or affect aircraft safety;

(5)(A) an airport noise or access restriction adopted by an airport operator not later than October 1, 1990, and stayed as of October 1, 1990, by a court order or as a result of litigation, if any part of the restriction is subsequently allowed by a court to take effect; or

(B) a new restriction imposed by an airport operator to replace any part of a restriction described in subclause (A) of this clause that is disallowed by a court, if the new restriction would not prohibit aircraft operations in effect on November 5, 1990; or

(6) a local action that represents the adoption of the final part of a program of a staged airport noise or access restriction if the initial part of the program was adopted during 1988 and was in effect on November 5, 1990.

(e) GRANT LIMITATIONS.—Beginning on the 91st day after the Secretary prescribes a regulation under subsection (a) of this section, a sponsor of a facility operating under an airport noise or access restriction on the operation of stage 3 aircraft that first became effective after October 1, 1990, is eligible for a grant under section 47104 of this title and is eligible to impose a passenger facility fee under section 40117 of this title only if the restriction has been—

(1) agreed to by the airport proprietor and aircraft operators;

(2) approved by the Secretary as required by subsection (c)(1) of this section; or

(3) rescinded.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1288.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47524(a)	49 App.:2153(a)(1).	Nov. 5, 1990, Pub. L. 101–508, §9304(a)(1)– (2)(C), (3)–(g), 104 Stat. 1388–379.
47524(b)	49 App.:2153(a)(2)(A), (c).	
47524(c)(1) ..	49 App.:2153(a)(2)(B), (b).	
47524(c)(2) ..	49 App.:2153(d).	
47524(c)(3) ..	49 App.:2153(a)(2)(D).	Nov. 5, 1990, Pub. L. 101–508, §9304(a)(2)(D), 104 Stat. 1388–380; Oct. 31, 1992, Pub. L. 102–581, §136(a), 106 Stat. 4889.
47524(c)(4) ..	49 App.:2153(f), (g).	
47524(d)	49 App.:2153(a)(2)(C).	
47524(e)	49 App.:2153(e).	

In subsection (a), the words ''shall provide for establishing'' are substituted for ''shall require the establishment . . . of'' as being more appropriate. The words ''in accordance with the provisions of this section'' are omitted as surplus.

In subsection (b), the words ''proposed after October 1, 1990'' are substituted for 49 App.:2153(a)(2)(A) to eliminate unnecessary words.

In subsection (c)(1), before clause (A), the words ''not in effect on October 1, 1990'' are substituted for 49 App.:2153(a)(2)(B) to eliminate unnecessary words. In clause (B), the words ''direct or indirect'' are omitted as surplus.

In subsection (c)(2)(A)–(D) and (F), the word ''proposed'' is omitted as surplus. In clause (D), the word ''existing'' is omitted as surplus.

In subsection (c)(4), the words ''that justifies a reevaluation'' are substituted for ''and that a review and reevaluation . . . of the previously approved or agreed to noise restriction is therefore justified'' to eliminate unnecessary words.

In subsection (d)(6), the words ''calendar year'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47525, 47533 of this title.

§ 47525. Decision about airport noise and access restrictions on certain stage 2 aircraft

The Secretary of Transportation shall conduct a study and decide on the application of section 47524(a)–(d) of this title to airport noise and access restrictions on the operation of stage 2 aircraft with a maximum weight of not more than 75,000 pounds. In making the decision, the Secretary shall consider—

(1) noise levels produced by those aircraft relative to other aircraft;

(2) the benefits to general aviation and the need for efficiency in the national air transportation system;

(3) the differences in the nature of operations at airports and the areas immediately surrounding the airports;

(4) international standards and agreements on aircraft noise; and

(5) other factors the Secretary considers necessary.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1291.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47525	49 App.:2154.	Nov. 5, 1990, Pub. L. 101–508, §9305, 104 Stat. 1388–382.

In this section, before clause (1), the words ''conduct a study and decide on'' are substituted for ''determine by a study'' for clarity. The words ''with a maximum weight of not more than'' are substituted for ''weighing less than'' for consistency with sections 47528 and 47529 of the revised title.

§ 47526. Limitations for noncomplying airport noise and access restrictions

Unless the Secretary of Transportation is satisfied that an airport is not imposing an airport noise or access restriction not in compliance with this subchapter, the airport may not—

(1) receive money under subchapter I of chapter 471 of this title; or

(2) impose a passenger facility fee under section 40117 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1291.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47526	49 App.:2156.	Nov. 5, 1990, Pub. L. 101–508, §9307, 104 Stat. 1388–382.

In this section, before clause (1), the words ''Under no conditions'' are omitted as surplus. In clause (2), the words ''or collect'' are omitted as surplus.

§ 47527. Liability of the United States Government for noise damages

When a proposed airport noise or access restriction is disapproved under this subchapter, the United States Government shall assume liability for noise damages only to the extent that a taking has occurred as a direct result of the disapproval. The United States Court of Federal Claims has exclusive jurisdiction of a civil action under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1291.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47527	49 App.:2155.	Nov. 5, 1990, Pub. L. 101–508, §9306, 104 Stat. 1388–382.

The words ''under this subchapter'' are added for clarity. The words ''has exclusive jurisdiction of a civil action under this section'' are substituted for ''Action for the resolution of such a case shall be brought solely in'' for clarity and consistency. The words ''Court of Federal Claims'' are substituted for ''Claims Court'' to reflect the change of name of the Court by section 902(b) of the Federal Courts Administration Act of 1992 (Public Law 102–572, 106 Stat. 4516).

§ 47528. Prohibition on operating certain aircraft not complying with stage 3 noise levels

(a) PROHIBITION.—Except as provided in subsection (b) of this section and section 47530 of this title, a person may operate after December 31, 1999, a civil subsonic turbojet with a maximum weight of more than 75,000 pounds to or from an airport in the United States only if the Secretary of Transportation finds that the aircraft complies with the stage 3 noise levels.

(b) WAIVERS.—(1) If, not later than July 1, 1999, at least 85 percent of the aircraft used by an air carrier to provide air transportation comply with the stage 3 noise levels, the carrier may apply for a waiver of subsection (a) of this section for the remaining aircraft used by the carrier to provide air transportation. The application must be filed with the Secretary not later than January 1, 1999, and must include a plan with firm orders for making all aircraft used by the carrier to provide air transportation comply with the noise levels not later than December 31, 2003.

(2) The Secretary may grant a waiver under this subsection if the Secretary finds it would be in the public interest. In making the finding, the Secretary shall consider the effect of granting the waiver on competition in the air carrier industry and on small community air service.

(3) A waiver granted under this subsection may not permit the operation of stage 2 aircraft in the United States after December 31, 2003.

(c) SCHEDULE FOR PHASED-IN COMPLIANCE.—The Secretary shall establish by regulation a schedule for phased-in compliance with subsection (a) of this section. The phase-in period shall begin on November 5, 1990, and end before December 31, 1999. The regulations shall establish interim compliance dates. The schedule for phased-in compliance shall be based on—

(1) a detailed economic analysis of the impact of the phaseout date for stage 2 aircraft on competition in the airline industry, including—

(A) the ability of air carriers to achieve capacity growth consistent with the projected rate of growth for the airline industry;

(B) the impact of competition in the airline and air cargo industries;

(C) the impact on nonhub and small community air service; and

(D) the impact on new entry into the airline industry; and

(2) an analysis of the impact of aircraft noise on individuals residing near airports.

(d) ANNUAL REPORT.—Beginning with calendar year 1992—

(1) each air carrier shall submit to the Secretary an annual report on the progress the carrier is making toward complying with the requirements of this section and regulations prescribed under this section; and

(2) the Secretary shall submit to Congress an annual report on the progress being made toward that compliance.

(e) HAWAIIAN OPERATIONS.—(1) In this subsection, ''turnaround service'' means a flight between places only in Hawaii.

(2)(A) An air carrier or foreign air carrier may not operate in Hawaii, or between a place in Hawaii and a place outside the 48 contiguous States, a greater number of stage 2 aircraft with a maximum weight of more than 75,000 pounds than it operated in Hawaii, or between a place in Hawaii and a place outside the 48 contiguous States, on November 5, 1990.

(B) An air carrier that provided turnaround service in Hawaii on November 5, 1990, using stage 2 aircraft with a maximum weight of more than 75,000 pounds may include in the number of aircraft authorized under subparagraph (A) of this paragraph all stage 2 aircraft with a maximum weight of more than 75,000 pounds that were owned or leased by that carrier on that date, whether or not the aircraft were operated by the carrier on that date.

(3) An air carrier may provide turnaround service in Hawaii using stage 2 aircraft with a maximum weight of more than 75,000 pounds only if the carrier provided the service on November 5, 1990.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1291.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47528(a)	49 App.:2157(a).	Nov. 5, 1990, Pub. L. 101–508, §9308(a)–(c), (g), 104 Stat. 1388–382, 1388–383.
47528(b)	49 App.:2157(b).	
47528(c)	49 App.:2157(c).	
47528(d)	49 App.:2157(g).	
47528(e)	49 App.:2157(i).	Nov. 5, 1990, Pub. L. 101–508, 104 Stat. 1388–382, §9308(i); added Oct. 28, 1991, Pub. L. 102–143, §349(b), 105 Stat. 949.

In subsection (e), the words ''the State of'' are omitted as surplus. The words ''place'' and ''places'' are substituted for ''point'' and ''points'' for consistency in title the revised title.

In subsection (e)(1), the words ''the operation of'' are omitted as surplus. The words ''places only in Hawaii'' are substituted for ''two or more points, all of which are within the State of Hawaii'' to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47530, 47531, 47532 of this title.

§ 47529. Nonaddition rule

(a) GENERAL LIMITATIONS.—Except as provided in subsection (b) of this section and section 47530 of this title, a person may operate a civil subsonic turbojet aircraft with a maximum weight of more than 75,000 pounds that is imported into the United States after November 4, 1990, only if the aircraft—

(1) complies with the stage 3 noise levels; or

(2) was purchased by the person importing the aircraft into the United States under a legally binding contract made before November 5, 1990.

(b) EXEMPTIONS.—The Secretary of Transportation may provide an exemption from subsection (a) of this section to permit a person to obtain modifications to an aircraft to meet the stage 3 noise levels.

(c) AIRCRAFT DEEMED NOT IMPORTED.—In this section, an aircraft is deemed not to have been imported into the United States if the aircraft—

(1) was owned on November 5, 1990, by—

(A) a corporation, trust, or partnership organized under the laws of the United States or a State (including the District of Columbia);

(B) an individual who is a citizen of the United States; or

(C) an entity that is owned or controlled by a corporation, trust, partnership, or individual described in subclause (A) or (B) of this clause; and

(2) enters the United States not later than 6 months after the expiration of a lease agreement (including any extension) between an owner described in clause (1) of this subsection and a foreign carrier.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1292.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47529	49 App.:2158.	Nov. 5, 1990, Pub. L. 101–508, §9309, 104 Stat. 1388–384; Oct. 31, 1992, Pub. L. 102–581, §136(b), 106 Stat. 4889.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47530, 47531, 47532 of this title.

§ 47530. Nonapplication of sections 47528(a)–(d) and 47529 to aircraft outside the 48 contiguous States

Sections 47528(a)–(d) and 47529 of this title do not apply to aircraft used only to provide air transportation outside the 48 contiguous States. A civil subsonic turbojet aircraft with a maximum weight of more than 75,000 pounds that is imported into a noncontiguous State or a territory or possession of the United States after November 4, 1990, may be used to provide air transportation in the 48 contiguous States only if the aircraft complies with the stage 3 noise levels.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1293.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47530	49 App.:2157(d).	Nov. 5, 1990, Pub. L. 101–508, §9308(d), 104 Stat. 1388–383; Oct. 28, 1991, Pub. L. 102–143, §349(a), 105 Stat. 949.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47528, 47529, 47531, 47532 of this title.

§ 47531. Penalties for violating sections 47528–47530

A person violating section 47528, 47529, or 47530 of this title or a regulation prescribed under any of those sections is subject to the same civil penalties and procedures under chapter 463 of this title as a person violating section 44701(a) or (b) or any of sections 44702–44716 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1293; Pub. L. 103–429, §6(73), Oct. 31, 1994, 108 Stat. 4388.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47531	49 App.:2157(e).	Nov. 5, 1990, Pub. L. 101–508, §9308(e), 104 Stat. 1388–383.

PUB. L. 103–429

This amends 49:47531 to correct a grammatical error and erroneous cross-references.

AMENDMENTS

1994—Pub. L. 103–429 substituted ''section 47528'' for ''sections 47528'' and inserted ''any of'' before ''those'' and ''any of sections'' before ''44702–44716''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47532 of this title.

§ 47532. Judicial review

An action taken by the Secretary of Transportation under any of sections 47528–47531 of this title is subject to judicial review as provided under section 46110 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1293; Pub. L. 103–429, §6(74), Oct. 31, 1994, 108 Stat. 4388.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47532	49 App.:2157(f).	Nov. 5, 1990, Pub. L. 101–508, §9308(f), 104 Stat. 1388–383.

PUB. L. 103–429

This amends 49:47532 to correct an erroneous cross-reference.

AMENDMENTS

1994—Pub. L. 103–429 inserted ''any of'' before ''sections''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§ 47533. Relationship to other laws

Except as provided by section 47524 of this title, this subchapter does not affect—

(1) law in effect on November 5, 1990, on airport noise or access restrictions by local authorities;

(2) any proposed airport noise or access restriction at a general aviation airport if the airport proprietor has formally initiated a regulatory or legislative process before October 2, 1990; or

(3) the authority of the Secretary of Transportation to seek and obtain legal remedies the Secretary considers appropriate, including injunctive relief.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1293.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
47533	49 App.:2153(h).	Nov. 5, 1990, Pub. L. 101–508, §9304(h), 104 Stat. 1388–382.

PART C—FINANCING

CHAPTER 481—AIRPORT AND AIRWAY TRUST FUND AUTHORIZATIONS

Sec.
48101. Air navigation facilities and equipment.
48102. Research and development.
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48105. Weather reporting services.
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AMENDMENTS

1996—Pub. L. 104–264, title I, §§102(b)(2), 103(d)(2), title II, §275(b), Oct. 9, 1996, 110 Stat. 3216, 3217, 3247, inserted ''and equipment'' after ''facilities'' in item 48101, substituted ''Operations and maintenance'' for ''Certain direct costs and joint air navigation services'' in item 48104, and added item 48111.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 47108, 50101, 50102, 50105 of this title.

§ 48101. Air navigation facilities and equipment

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—Not more than a total of the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to acquire, establish, and improve air navigation facilities under section 44502(a)(1)(A) of this title:

(1) $2,068,000,000 for fiscal year 1997.
(2) $2,129,000,000 for fiscal year 1998.

(b) MAJOR AIRWAY CAPITAL INVESTMENT PLAN CHANGES.—If the Secretary decides that it is necessary to augment or substantially modify elements of the Airway Capital Investment Plan referred to in section 44501(b) of this title (including a decision that it is necessary to establish more than 23 area control facilities), not more than $100,000,000 may be appropriated to the Secretary out of the Fund for the fiscal year ending September 30, 1994, to carry out the augmentation or modification.

(c) AVAILABILITY OF AMOUNTS.—Amounts appropriated under this section remain available until expended.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1294; Pub. L. 103–305, title I, § 102(a), Aug. 23, 1994, 108 Stat. 1571; Pub. L. 104–264, title I, § 102(a), (b)(1), Oct. 9, 1996, 110 Stat. 3216.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48101(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.
	49 App.:2205(a)(1) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, § 506(a)(1), 96 Stat. 677; restated Dec. 30, 1987, Pub. L. 100–223, § 105(a)(2), 101 Stat. 1490; Nov. 5, 1990, Pub. L. 101–508, § 9105(b), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, § 103(a), 106 Stat. 4877.
48101(b)	49 App.:2202(a)(24).	
	49 App.:2205(a)(2) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, § 506(a)(2), 96 Stat. 677; Dec. 30, 1987, Pub. L. 100–223, § 105(a)(2), 101 Stat. 1490; restated Oct. 31, 1992, Pub. L. 102–581, § 103(b), 106 Stat. 4877.
48101(c)	49 App.:2205(a)(1) (last sentence), (2) (last sentence).	

In subsection (a), the words ''to the Secretary of Transportation'' are added for clarity and consistency in this chapter. The words ''for fiscal years beginning after September 30, 1990'' and ''$2,500,000,000 for fiscal year 1991'' are omitted as obsolete.

AMENDMENTS

1996—Pub. L. 104–264, § 102(b)(1), inserted ''and equipment'' after ''facilities'' in section catchline.

Subsec. (a). Pub. L. 104–264, § 102(a), added pars. (1) and (2) and struck out former pars. (1) to (4) which read as follows:

''(1) For the fiscal years ending September 30, 1991–1993, $8,200,000,000.

''(2) For the fiscal years ending September 30, 1991–1994, $10,724,000,000.

''(3) For the fiscal years ending September 30, 1991–1995, $13,394,000,000.

''(4) For the fiscal years ending September 30, 1991–1996, $16,129,000,000.''

1994—Subsec. (a)(1). Pub. L. 103–305, § 102(a)(1), substituted ''For'' for ''for''.

Subsec. (a)(2). Pub. L. 103–305, § 102(a)(2), substituted ''For'' for ''for'' and ''$10,724,000,000'' for ''$11,100,000,000''.

Subsec. (a)(3). Pub. L. 103–305, § 102(a)(3), substituted ''For'' for ''for'' and ''$13,394,000,000'' for ''$14,000,000,000''.

Subsec. (a)(4). Pub. L. 103–305, § 102(a)(4), added par. (4).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44502, 48104, 48108, 48109 of this title.

§ 48102. Research and development

(a) AUTHORIZATION OF APPROPRIATIONS.—Not more than the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to carry out sections 44504, 44505, 44507, 44509, and 44511–44513 of this title:

(1) for fiscal year 1995—
(A) $7,673,000 for management and analysis projects and activities;
(B) $80,901,000 for capacity and air traffic management technology projects and activities;
(C) $39,242,000 for communications, navigation, and surveillance projects and activities;
(D) $2,909,000 for weather projects and activities;
(E) $8,660,000 for airport technology projects and activities;
(F) $51,004,000 for aircraft safety technology projects and activities;
(G) $36,604,000 for system security technology projects and activities;
(H) $26,484,000 for human factors and aviation medicine projects and activities;
(I) $8,124,000 for environment and energy projects and activities; and
(J) $5,199,000 for innovative/cooperative research projects and activities;

(2) for fiscal year 1996—
(A) $8,056,000 for management and analysis projects and activities;
(B) $84,946,000 for capacity and air traffic management technology projects and activities;
(C) $41,204,000 for communications, navigation, and surveillance projects and activities;
(D) $3,054,000 for weather projects and activities;
(E) $9,093,000 for airport technology projects and activities;
(F) $53,554,000 for aircraft safety technology projects and activities;
(G) $38,434,000 for system security technology projects and activities;
(H) $27,808,000 for human factors and aviation medicine projects and activities;
(I) $8,532,000 for environment and energy projects and activities; and
(J) $5,459,000 for innovative/cooperative research projects and activities; and

(3) for fiscal year 1997—
(A) $13,660,000 for system development and infrastructure projects and activities;

(B) $34,889,000 for capacity and air traffic management technology projects and activities;

(C) $19,000,000 for communications, navigation, and surveillance projects and activities;

(D) $13,000,000 for weather projects and activities;

(E) $5,200,000 for airport technology projects and activities;

(F) $36,504,000 for aircraft safety technology projects and activities;

(G) $57,055,000 for system security technology projects and activities;

(H) $23,504,000 for human factors and aviation medicine projects and activities;

(I) $3,600,000 for environment and energy projects and activities; and

(J) $2,000,000 for innovative/cooperative research projects and activities.

(b) RESEARCH PRIORITIES.—(1) The Administrator shall consider the advice and recommendations of the research advisory committee established by section 44508 of this title in establishing priorities among major categories of research and development activities carried out by the Federal Aviation Administration.

(2) At least 15 percent of the amount appropriated under subsection (a) of this section shall be for long-term research projects.

(3) At least 3 percent of the amount appropriated under subsection (a) of this section shall be available to the Administrator of the Federal Aviation Administration to make grants under section 44511 of this title.

(c) TRANSFERS BETWEEN CATEGORIES.—(1) Not more than 10 percent of the net amount authorized for a category of projects and activities in a fiscal year under subsection (a) of this section may be transferred to or from that category in that fiscal year.

(2) The Secretary may transfer more than 10 percent of an authorized amount to or from a category only after—

(A) submitting a written explanation of the proposed transfer to the Committees on Science and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate; and

(B) 30 days have passed after the explanation is submitted or each Committee notifies the Secretary in writing that it does not object to the proposed transfer.

(d) AIRPORT CAPACITY RESEARCH AND DEVELOPMENT.—(1) Of the amounts made available under subsection (a) of this section, at least $25,000,000 may be appropriated each fiscal year for research and development under section 44505(a) and (c) of this title on preserving and enhancing airport capacity, including research and development on improvements to airport design standards, maintenance, safety, operations, and environmental concerns.

(2) The Administrator shall submit to the Committees on Science and Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on expenditures made under paragraph (1) of this subsection for each fiscal year. The report shall be submitted not later than 60 days after the end of the fiscal year.

(e) AIR TRAFFIC CONTROLLER PERFORMANCE RESEARCH.—Necessary amounts may be appropriated to the Secretary out of amounts in the Fund available for research and development to conduct research under section 44506(a) and (b) of this title.

(f) AVAILABILITY OF AMOUNTS.—Amounts appropriated under subsection (a) of this section remain available until expended.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1294; Pub. L. 103–305, title III, §302, Aug. 23, 1994, 108 Stat. 1589; Pub. L. 104–264, title XI, §§1102, 1103, Oct. 9, 1996, 110 Stat. 3278; Pub. L. 104–287, §5(9), (74), Oct. 11, 1996, 110 Stat. 3389, 3396.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48102(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.
	49 App.:2205(b)(2) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, §506(b)(2), 96 Stat. 678; restated Dec. 30, 1987, Pub. L. 100–223, §105(b)(1), 101 Stat. 1490; Nov. 3, 1988, Pub. L. 100–591, §7, 102 Stat. 3014; Nov. 5, 1990, Pub. L. 101–508, §9202, 104 Stat. 1388–372; Oct. 31, 1992, Pub. L. 102–581, §302, 106 Stat. 4895.
48102(b)	49 App.:2205(b)(2) (last sentence).	
48102(c)	49 App.:2205(b)(3).	Sept. 3, 1982, Pub. L. 97–248, §506(b)(3), (5), 96 Stat. 678; restated Dec. 30, 1987, Pub. L. 100–223, §105(b)(1), 101 Stat. 1491.
48102(d)	49 App.:2205(b)(4).	Sept. 30, 1982, Pub. L. 97–248, §506(b)(4), 96 Stat. 678; restated Dec. 30, 1987, Pub. L. 100–223, §105(b)(1), 101 Stat. 1491; Nov. 5, 1990, Pub. L. 101–508, §9203, 104 Stat. 1388–373.
48102(e)	49 App.:1353 (note).	Nov. 3, 1988, Pub. L. 100–591, §8(d), 102 Stat. 3016; Nov. 17, 1988, Pub. L. 100–685, §604, 102 Stat. 4103.
48102(f)	49 App.:2205(b)(5).	

In subsections (a) and (b), as to applicability of section 305(b) of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 (Pub. L. 102–581, 106 Stat. 4896), see section 6(b) of the bill.

In subsection (a)(1), the word ''solely'' is omitted as surplus. Before clause (1), the words ''to the Secretary of Transportation'' are added for clarity and consistency in this chapter.

In subsection (d)(1), the words ''Notwithstanding any other provision of this subsection'' and ''in each of fiscal years 1988, 1989, 1990, 1991, and 1992'' are omitted as surplus.

In subsection (d)(2), the reference to fiscal years 1988–1992 and the words ''by the Administrator for research and development'' are omitted as surplus.

AMENDMENTS

1996—Subsec. (a)(3). Pub. L. 104–264, §1102, added par. (3).

Subsec. (b). Pub. L. 104–264, §1103, substituted ''RESEARCH PRIORITIES'' for ''AVAILABILITY FOR RESEARCH'' in heading, added par. (1), and redesignated former pars. (1) and (2) as (2) and (3), respectively.

Subsec. (c)(2)(A). Pub. L. 104–287, §5(74), substituted ''Committees on Science'' for ''Committees on Science, Space, and Technology''.

Subsec. (d)(2). Pub. L. 104–287, §5(74), substituted ''Committees on Science'' for ''Committees on Science, Space, and Technology''.

Pub. L. 104–287, §5(9), substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

1994—Subsec. (a)(1), (2). Pub. L. 103–305 inserted pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

''(1) for the fiscal year ending September 30, 1993—

''(A) $14,700,000 only for management and analysis projects and activities.

''(B) $87,000,000 only for capacity and air traffic management technology projects and activities.

''(C) $28,000,000 only for communications, navigation, and surveillance projects and activities.

''(D) $7,700,000 only for weather projects and activities.

''(E) $6,800,000 only for airport technology projects and activities.

''(F) $44,000,000 only for aircraft safety technology projects and activities.

''(G) $41,100,000 only for system security technology projects and activities.

''(H) $31,000,000 only for human factors and aviation medicine projects and activities.

''(I) $4,500,000 for environment and energy projects and activities.

''(J) $5,200,000 for innovative and cooperative research projects and activities.

''(2) for the fiscal year ending September 30, 1994, $297,000,000.''

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44508, 47108, 48104, 48108, 48109, 50101, 50102, 50103, 50105 of this title.

§ 48103. Airport planning and development and noise compatibility planning and programs

The total amounts which shall be available after September 30, 1996, to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to make grants for airport planning and airport development under section 47104 of this title, airport noise compatibility planning under section 47505(a)(2) of this title, and carrying out noise compatibility programs under section 47504(c) of this title shall be $2,280,000,000 for fiscal years ending before October 1, 1997, and $4,627,000,000 for fiscal years ending before October 1, 1998.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1296; Pub. L. 103–305, title I, §101(a), Aug. 23, 1994, 108 Stat. 1570; Pub. L. 104–264, title I, §101(a), Oct. 9, 1996, 110 Stat. 3216.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48103	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	49 App.:2204(a) (2d sentence).	Sept. 3, 1982, Pub. L. 97–248, §505(a) (2d sentence), 96 Stat. 676; Jan. 6, 1983, Pub. L. 97–424, §426(b)(1)–(5), 96 Stat. 2167; restated Dec. 30, 1987, Pub. L. 100–223, §105(e), 101 Stat. 1493; Nov. 5, 1990, Pub. L. 101–508, §9104(1), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, §102(a), 106 Stat. 4876.

In this section, references to the aggregate amounts for fiscal years ending before October 1, 1987–1992, are omitted as obsolete. The words ''of which $475,000,000 shall be credited to the supplementary discretionary fund established by section 2206(a)(3)(B)'' are omitted as executed. In restating section 505(a) (2d sentence) of the Airport and Airway Improvement Act of 1982 (Public Law 97–248, 96 Stat. 676), the cross-reference to the discretionary fund was retained but is incorrect because of the restatement of section 507 of the Airport and Airway Improvement Act of 1982 (Public Law 97–248, 96 Stat. 679) by section 426(a) of the Highway Improvement Act of 1982 (Public Law 97–424, 96 Stat. 2167). See section 47115 of the revised title.

AMENDMENTS

1996—Pub. L. 104–264 substituted ''September 30, 1996'' for ''September 30, 1981'' and ''$2,280,000,000 for fiscal years ending before October 1, 1997, and $4,627,000,000 for fiscal years ending before October 1, 1998.'' for ''$17,583,500,000 for fiscal years ending before October 1, 1994, $19,744,500,000 for fiscal years ending before October 1, 1995, and $21,958,500,000 for fiscal years ending before October 1, 1996.''

1994—Pub. L. 103–305 substituted ''The total amounts which shall be available after September 30, 1981, to the Secretary of Transportation'' for ''Not more than a total of $15,966,700,000 is available to the Secretary of Transportation for the fiscal years ending September 30, 1982–1993,'' and inserted before period at end ''shall be $17,583,500,000 for fiscal years ending before October 1, 1994, $19,744,500,000 for fiscal years ending before October 1, 1995, and $21,958,500,000 for fiscal years ending before October 1, 1996''.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47102, 47104, 47107, 47110, 47113, 47114, 47115, 47116, 47117, 47504, 47505, 48104, 48108 of this title.

§ 48104. Operations and maintenance

(a) AUTHORIZATION OF APPROPRIATIONS.—Except as provided in this section, the balance of the money available in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) may be appropriated to the Secretary of Transportation out of the Fund for—

(1) direct costs the Secretary incurs to flight check, operate, and maintain air navigation facilities referred to in section 44502(a)(1)(A) of this title safely and efficiently; and

(2) the costs of services provided under international agreements related to the joint financing of air navigation services assessed against the United States Government.

(b) LIMITATION FOR FISCAL YEAR 1993.—The amount that may be appropriated out of the Fund for fiscal year 1993 may not be more than an amount equal to—

(1) 75 percent of the amount made available under sections 106(k) and 48101–48103 of this title for that fiscal year; less

(2) the amount made available under sections 48101–48103 of this title for that fiscal year.

(c) LIMITATION FOR FISCAL YEARS 1994–1998.—The amount appropriated from the Trust Fund for the purposes of paragraphs (1) and (2) of subsection (a) for each of fiscal years 1994 through 1998 may not exceed the lesser of—

(1) 50 percent of the amount of funds made available under sections 48101–48103 of this title for such fiscal year; or

(2)(A) 72.5 percent of the amount of funds made available under sections 106(k) and 48101–48103 of this title for such fiscal year; less

(B) the amount of funds made available under sections 48101–48103 of this title for such fiscal year.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1296; Pub. L. 103–305, title I, §102(b), Aug. 23, 1994, 108 Stat. 1571; Pub. L. 104–264, title I, §103(b), (d)(1), Oct. 9, 1996, 110 Stat. 3216; Pub. L. 104–287, §5(87), Oct. 11, 1996, 110 Stat. 3398.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48104(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.
	49 App.:2205(c)(1).	Sept. 3, 1982, Pub. L. 97–248, §506(c)(1), 96 Stat. 678; Dec. 30, 1987, Pub. L. 100–223, §105(g)(2)(A), (C), 101 Stat. 1494.
48104(b)	49 App.:2205(c)(2).	Sept. 3, 1982, Pub. L. 97–248, §506(c)(2), 96 Stat. 678; Jan. 6, 1983, Pub. L. 97–424, §426(c), 96 Stat. 2168; Dec. 30, 1987, Pub. L. 100–223, §105(g)(2)(B), (C), 101 Stat. 1494.
	49 App.:2205(c)(3).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §506(c)(3); added Dec. 30, 1987, Pub. L. 100–223, §105(c)(1), 101 Stat. 1492; Nov. 5, 1990, Pub. L. 101–508, §9107(a), 104 Stat. 1388–355.
	49 App.:2205(c)(4).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §506(c)(4); added Nov. 5, 1990, Pub. L. 101–508, §9107(b), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, §103(c)(1), 106 Stat. 4877.

In subsection (a), before clause (1), the words ''Except as provided in this section'' are added for clarity. The words ''to the Secretary of Transportation'' are added for clarity and consistency in this chapter.

In subsection (b), the text of 49 App.:2205(c)(2) and (3) and the reference to fiscal years 1991 and 1992 in 49 App:2205(c)(4) are omitted as obsolete.

PUB. L. 104–287

This makes a clarifying amendment to the catchline for 49:48104(b).

AMENDMENTS

1996—Pub. L. 104–264, §103(d)(1), substituted ''Operations and maintenance'' for ''Certain direct costs and joint air navigation services'' in section catchline.

Subsec. (b). Pub. L. 104–287 substituted ''YEAR'' for ''YEARS'' in heading.

Subsec. (c). Pub. L. 104–264, §103(b)(1), (2), substituted ''1998'' for ''1996'' in heading and ''1994 through 1998'' for ''1994, 1995, and 1996'' in introductory provisions.

Subsec. (c)(2)(A). Pub. L. 104–264, §103(b)(3), substituted ''72.5 percent'' for ''70 percent''.

1994—Subsec. (b). Pub. L. 103–305, §102(b)(1), (2), inserted ''FOR FISCAL YEARS 1993'' in heading and substituted ''fiscal year 1993'' for ''each of the fiscal years ending September 30, 1993–1995,'' in introductory provisions.

Subsec. (c). Pub. L. 103–305, §102(b)(3), added subsec. (c).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 48105, 48108 of this title.

§ 48105. Weather reporting services

To reimburse the Secretary of Commerce for the cost incurred by the National Oceanic and Atmospheric Administration of providing weather reporting services to the Federal Aviation Administration, the Secretary of Transportation may expend from amounts available under section 48104 of this title not more than the following amounts:

(1) for the fiscal year ending September 30, 1993, $35,596,000.

(2) for the fiscal year ending September 30, 1994, $37,800,000.

(3) for the fiscal year ending September 30, 1995, $39,000,000.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1296.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48105	49 App.:2205(d).	Sept. 3, 1982, Pub. L. 97–248, §506(d), 96 Stat. 678; Dec. 30, 1987, Pub. L. 100–223, §105(c)(2), 101 Stat. 1493; Nov. 5, 1990, Pub. L. 101–508, §§9108, 9204, 104 Stat. 1388–355, 1388–373; Oct. 31, 1992, Pub. L. 102–581, §103(d), 106 Stat. 4877.

The words ''for fiscal years beginning after September 30, 1982'' are omitted as obsolete. The words ''Secretary of Commerce'' are substituted for ''National Oceanic and Atmospheric Administration'' because of 15:1501. The words ''The Federal Aviation Administration with'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 48108 of this title.

§ 48106. Airway science curriculum grants

Amounts are available from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to carry out section 44510 of this title. The amounts remain available until expended.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1296.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48106	49 App.:1354a (2d sentence).	Nov. 5, 1990, Pub. L. 101–516, (2d sentence in par. under heading ''Facilities and Equipment''), 104 Stat. 2160. Oct. 28, 1991, Pub. L. 102–143, (2d sentence in par. under heading ''Facilities and Equipment''), 105 Stat. 922. Oct. 6, 1992, Pub. L. 102–388, (2d sentence in par. under heading ''Facilities and Equipment''), 106 Stat. 1526.

This section is substituted for the source provisions for clarity and because of the restatement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47108, 50101, 50102, 50105 of this title.

§ 48107. Civil aviation security research and development

After the review under section 44912(b) of this title is completed, necessary amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to make grants under section 44912(a)(4)(A).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1297.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48107	49 App.:1357(d)(9).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 316(d)(9); added Nov. 16, 1990, Pub. L. 101–604, § 107, 104 Stat. 3077.

The words ''to the Secretary of Transportation'' are added for clarity and consistency in this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 47108, 50101, 50102, 50105 of this title.

§ 48108. Availability and uses of amounts

(a) AVAILABILITY OF AMOUNTS.—Amounts equal to the amounts authorized under sections 48101–48105 of this title remain in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) until appropriated for the purposes of sections 48101–48105.

(b) LIMITATIONS ON USES.—(1) Amounts in the Fund may be appropriated only to carry out a program or activity referred to in this chapter.

(2) Amounts in the Fund may be appropriated for administrative expenses of the Department of Transportation or a component of the Department only to the extent authorized by section 48104 of this title.

(c) LIMITATION ON OBLIGATING OR EXPENDING AMOUNTS.—In a fiscal year beginning after September 30, 1998, the Secretary of Transportation may obligate or expend an amount appropriated out of the Fund under section 48104 of this title only if a law expressly amends section 48104.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1297; Pub. L. 103–305, title I, § 102(c), Aug. 23, 1994, 108 Stat. 1571; Pub. L. 104–264, title I, § 103(c), Oct. 9, 1996, 110 Stat. 3216.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48108(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, § 503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, § 103(c)(1), 101 Stat. 1488.
	49 App.:2205(e)(2).	Sept. 3, 1982, Pub. L. 97–248, § 506(e)(2), 96 Stat. 679; Dec. 30, 1987, Pub. L. 100–223, § 105(g)(3), 101 Stat. 1494.
48108(b)(1) ..	49 App.:2205(e)(1).	Sept. 3, 1982, Pub. L. 97–248, § 506(e)(1), 96 Stat. 679; Dec. 30, 1987, Pub. L. 100–223, § 105(d)(1), 101 Stat. 1493.
48108(b)(2) ..	49 App.:2205(e)(3).	Sept. 3, 1982, Pub. L. 97–248, § 506(e)(3), 96 Stat. 679.
48108(c)	49 App.:2205(e)(5).	Sept. 3, 1982, Pub. L. 97–248, § 506(e)(5), 96 Stat. 679; Dec. 30, 1987, Pub. L. 100–223, § 105(d)(2), 101 Stat. 1493; Oct. 31, 1992, Pub. L. 102–581, § 103(c)(2), 106 Stat. 4877.

In subsection (a), the words ''for each fiscal year'' are omitted as surplus.

In subsection (b)(1), the words ''Notwithstanding any other provision of law to the contrary'' are omitted as surplus. The reference to ''this chapter'' is intended to include sections 48106 and 48107 of the revised title for accuracy because the source provisions for those sections were enacted after the source provisions being restated in this section.

In subsection (b)(2), the words ''for any fiscal year'' are omitted as surplus.

In subsection (c), the words ''be construed as'' and ''the purposes described in'' are omitted as surplus.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–264 substituted ''1998'' for ''1996''.

1994—Subsec. (c). Pub. L. 103–305 substituted ''1996'' for ''1995''.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

§ 48109. Submission of budget information and legislative recommendations and comments

When the Administrator of the Federal Aviation Administration submits to the Secretary of Transportation, the President, or the Director of the Office of Management and Budget any budget information, legislative recommendation, or comment on legislation about amounts authorized in section 48101 or 48102 of this title, the Administrator concurrently shall submit a copy of the information, recommendation, or comment to the Speaker of the House of Representatives, the Committees on Transportation and Infrastructure and Appropriations of the House, the President of the Senate, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1297; Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48109	49 App.:2205(f).	Sept. 3, 1982, Pub. L. 97–248, § 506(f), 96 Stat. 679.

The words ''Director of the Office of Management and Budget'' are substituted for ''Office of Management and Budget'' because of 31:502(a). The words ''or transmits . . . budget estimate, budget request, supplemental budget estimate, or other'' and ''thereof'' are omitted as surplus.

AMENDMENTS

1996—Pub. L. 104–287 substituted ''Transportation and Infrastructure'' for ''Public Works and Transportation''.

§ 48110. Facilities for advanced training of maintenance technicians for air carrier aircraft

For the fiscal years ending September 30, 1993–1995, amounts necessary to carry out section 44515 of this title may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502). The amounts remain available until expended.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1297.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
48110	49 App.:1354 (note).	Oct. 31, 1992, Pub. L. 102–581, § 119(d), 106 Stat. 4884.

The words ''to the Secretary of Transportation'' are added for clarity and consistency in this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47108, 50101, 50102, 50105 of this title.

§ 48111. Funding proposals

(a) INTRODUCTION IN THE SENATE.—Within 15 days (not counting any day on which the Senate is not in session) after a funding proposal is submitted to the Senate by the Secretary of Transportation under section 274(c) of the Air Traffic Management System Performance Improvement Act of 1996, an implementing bill with respect to such funding proposal shall be introduced in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate.

(b) CONSIDERATION IN THE SENATE.—An implementing bill introduced in the Senate under subsection (a) shall be referred to the Committee on Commerce, Science, and Transportation. The Committee on Commerce, Science, and Transportation shall report the bill with its recommendations within 60 days following the date of introduction of the bill. Upon the reporting of the bill by the Committee on Commerce, Science, and Transportation, the reported bill shall be referred sequentially to the Committee on Finance for a period of 60 legislative days.

(c) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) IMPLEMENTING BILL.—The term ''implementing bill'' means only a bill of the Senate which is introduced as provided in subsection (a) with respect to one or more Federal Aviation Administration funding proposals which contain changes in existing laws or new statutory authority required to implement such funding proposal or proposals.

(2) FUNDING PROPOSAL.—The term ''funding proposal'' means a proposal to provide interim or permanent funding for operations of the Federal Aviation Administration.

(d) RULES OF THE SENATE.—The provisions of this section are enacted—

(1) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(Added Pub. L. 104–264, title II, § 275(a), Oct. 9, 1996, 110 Stat. 3246.)

REFERENCES IN TEXT

Section 274(c) of the Air Traffic Management System Performance Improvement Act of 1996, referred to in subsec. (a), is section 274(c) of Pub. L. 104–264, which is set out as a note under section 40101 of this title.

EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

CHAPTER 482—ADVANCE APPROPRIATIONS FOR AIRPORT AND AIRWAY TRUST FACILITIES

Sec.
48201. Advance appropriations.

§ 48201. Advance appropriations

(a) MULTIYEAR AUTHORIZATIONS.—Beginning with fiscal year 1999, any authorization of appropriations for an activity for which amounts are to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 shall provide funds for a period of not less than 3 fiscal years unless the activity for which appropriations are authorized is to be concluded before the end of that period.

(b) MULTIYEAR APPROPRIATIONS.—Beginning with fiscal year 1999, amounts appropriated from the Airport and Airway Trust Fund shall be appropriated for periods of 3 fiscal years rather than annually.

(Added Pub. L. 104–264, title II, § 277(a), Oct. 9, 1996, 110 Stat. 3248.)

REFERENCES IN TEXT

Section 9502 of the Internal Revenue Code of 1986, referred to in subsec. (a), is classified to section 9502 of Title 26, Internal Revenue Code.

EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

PART D—PUBLIC AIRPORTS

CHAPTER 491—METROPOLITAN WASHINGTON AIRPORTS

Sec.
49101. Findings.
49102. Purpose.
49103. Definitions.
49104. Lease of Metropolitan Washington Airports.
49105. Capital improvements, construction, and rehabilitation.
49106. Metropolitan Washington Airports Authority.
49107. Federal employees at Metropolitan Washington Airports.
49108. Limitations.
49109. Nonstop flights.
49110. Use of Dulles Airport Access Highway.
49111. Relationship to and effect of other laws.
49112. Separability and effect of judicial order.

§ 49101. Findings

Congress finds that—

(1) the 2 federally owned airports in the metropolitan area of the District of Columbia constitute an important and growing part of the commerce, transportation, and economic patterns of Virginia, the District of Columbia, and the surrounding region;

(2) Baltimore/Washington International Airport, owned and operated by Maryland, is an air transportation facility that provides service to the greater Metropolitan Washington region together with the 2 federally owned airports, and timely Federal-aid grants to Baltimore/Washington International Airport will provide additional capacity to meet the growing air traffic needs and to compete with other airports on a fair basis;

(3) the United States Government has a continuing but limited interest in the operation of the 2 federally owned airports, which serve the travel and cargo needs of the entire Metropolitan Washington region as well as the District of Columbia as the national seat of government;

(4) operation of the Metropolitan Washington Airports by an independent local authority will facilitate timely improvements at both airports to meet the growing demand of interstate air transportation occasioned by the Airline Deregulation Act of 1978 (Public Law 95–504; 92 Stat. 1705);

(5) all other major air carrier airports in the United States are operated by public entities at the State, regional, or local level;

(6) any change in status of the 2 airports must take into account the interest of nearby communities, the traveling public, air carriers, general aviation, airport employees, and other interested groups, as well as the interests of the United States Government and State governments involved;

(7) in recognition of a perceived limited need for a Federal role in the management of these airports and the growing local interest, the Secretary of Transportation has recommended a transfer of authority from the Federal to the local/State level that is consistent with the management of major airports elsewhere in the United States;

(8) an operating authority with representation from local jurisdictions, similar to authorities at all major airports in the United States, will improve communications with local officials and concerned residents regarding noise at the Metropolitan Washington Airports;

(9) a commission of congressional, State, and local officials and aviation representatives has recommended to the Secretary that transfer of the federally owned airports be as a unit to an independent authority to be created by Virginia and the District of Columbia; and

(10) the Federal interest in these airports can be provided through a lease mechanism which provides for local control and operation.

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2206.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49101	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6002, 100 Stat. 1783–373. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6002, 100 Stat. 3341–376.

In clause (4), the word ''authority'' is substituted for ''agency'' for consistency in the revised title and with other titles of the United States Code.

REFERENCES IN TEXT

The Airline Deregulation Act of 1978, referred to in par. (4), is Pub. L. 95–504, Oct. 24, 1978, 92 Stat. 1705, as amended, which was classified principally to sections of former Title 49, Transportation. The Act was substantially repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see Table at the beginning of Title 49.

PRIOR PROVISIONS

A prior section 49101 was renumbered section 50101 of this title.

§ 49102. Purpose

(a) GENERAL.—The purpose of this chapter is to authorize the transfer of operating responsibility under long-term lease of the 2 Metropolitan Washington Airport properties as a unit, including access highways and other related facilities, to a properly constituted independent airport authority created by Virginia and the District of Columbia, in order to achieve local control, management, operation, and development of these important transportation assets.

(b) INCLUSION OF BALTIMORE/WASHINGTON INTERNATIONAL AIRPORT NOT PRECLUDED.—This

chapter does not prohibit the Airports Authority and Maryland from making an agreement to make Baltimore/Washington International Airport part of a regional airports authority, subject to terms agreed to by the Airports Authority, the Secretary of Transportation, Virginia, the District of Columbia, and Maryland.

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2207.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49102(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6003(a), 100 Stat. 1783–374. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6003(a), 100 Stat. 3341–377.
49102(b)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6003(b), 100 Stat. 1783–374. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6003(b), 100 Stat. 3341–377.

In subsection (b), the words ''and conditions'' are omitted as being included in ''terms''.

PRIOR PROVISIONS

A prior section 49102 was renumbered section 50102 of this title.

§ 49103. Definitions

In this chapter—

(1) ''Airports Authority'' means the Metropolitan Washington Airports Authority, a public authority created by Virginia and the District of Columbia consistent with the requirements of section 49106 of this title.

(2) ''employee'' means any permanent Federal Aviation Administration personnel employed by the Metropolitan Washington Airports on June 7, 1987.

(3) ''Metropolitan Washington Airports'' means Washington National Airport and Washington Dulles International Airport.

(4) ''Washington Dulles International Airport'' means the airport constructed under the Act of September 7, 1950 (ch. 905, 64 Stat. 770), and includes the Dulles Airport Access Highway and Right-of-way, including the extension between Interstate Routes I–495 and I–66.

(5) ''Washington National Airport'' means the airport described in the Act of June 29, 1940 (ch. 444, 54 Stat. 686).

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2207.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49103	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6004, 100 Stat. 1783–374. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6004, 100 Stat. 3341–377.

In this section, the text of section 6004(1) and (5) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500, 100 Stat. 1783–374, 1783–375, Public Law 99–591, 100 Stat. 3341–378) is omitted as surplus because the complete names of the Administrator of the Federal Aviation Administration and the Secretary of Transportation are used the first time those terms appear in a section.

In clause (1), the words ''an organization within the Federal Aviation Administration'' are omitted as surplus.

REFERENCES IN TEXT

Act of September 7, 1950, ch. 905, 64 Stat. 770, referred to in par. (4), was classified to subchapter II (§ 2421 et seq.) of chapter 33 of former Title 49, Transportation, and was omitted from the Code when subtitles II, III, and V to X of Title 49, Transportation, were enacted by Pub. L. 103–272, July 5, 1994, 108 Stat. 745.

Act of June 29, 1940, ch. 444, 54 Stat. 686, referred to in par. (5), was classified to subchapter I (§ 2401 et seq.) of chapter 33 of former Title 49, Transportation, and was omitted from the Code when subtitles II, III, and V to X of Title 49, Transportation, were enacted by Pub. L. 103–272, July 5, 1994, 108 Stat. 745.

PRIOR PROVISIONS

A prior section 49103 was renumbered section 50103 of this title.

§ 49104. Lease of Metropolitan Washington Airports

(a) GENERAL.—The lease between the Secretary of Transportation and the Metropolitan Washington Airports Authority under section 6005(a) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500; 100 Stat. 1783–375; Public Law 99–591; 100 Stat. 3341–378), for the Metropolitan Washington Airports must provide during its 50-year term at least the following:

(1) The Airports Authority shall operate, maintain, protect, promote, and develop the Metropolitan Washington Airports as a unit and as primary airports serving the Metropolitan Washington area.

(2)(A) In this paragraph, ''airport purposes'' means a use of property interests (except a sale) for—

(i) aviation business or activities;

(ii) activities necessary or appropriate to serve passengers or cargo in air commerce; or

(iii) nonprofit, public use facilities that are not inconsistent with the needs of aviation.

(B) During the period of the lease, the real property constituting the Metropolitan Washington Airports shall be used only for airport purposes.

(C) If the Secretary decides that any part of the real property leased to the Airports Authority under this chapter is used for other than airport purposes, the Secretary shall—

(i) direct that the Airports Authority take appropriate measures to have that part of the property be used for airport purposes; and

(ii) retake possession of the property if the Airports Authority fails to have that part of the property be used for airport purposes within a reasonable period of time, as the Secretary decides.

(3) The Airports Authority is subject to section 47107(a)–(c) and (e) of this title and to the assurances and conditions required of grant recipients under the Airport and Airway Improvement Act of 1982 (Public Law 97–248; 96 Stat. 671) as in effect on June 7, 1987. Notwithstanding section 47107(b) of this title, all revenues generated by the Metropolitan Washing-

ton Airports shall be expended for the capital and operating costs of the Metropolitan Washington Airports.

(4) In acquiring by contract supplies or services for an amount estimated to be more than $200,000, or awarding concession contracts, the Airports Authority to the maximum extent practicable shall obtain complete and open competition through the use of published competitive procedures. By a vote of 7 members, the Airports Authority may grant exceptions to the requirements of this paragraph.

(5)(A) Except as provided in subparagraph (B) of this paragraph, all regulations of the Metropolitan Washington Airports (14 CFR part 159) become regulations of the Airports Authority as of June 7, 1987, and remain in effect until modified or revoked by the Airports Authority under procedures of the Airports Authority.

(B) Sections 159.59(a) and 159.191 of title 14, Code of Federal Regulations, do not become regulations of the Airports Authority.

(C) The Airports Authority may not increase or decrease the number of instrument flight rule takeoffs and landings authorized by the High Density Rule (14 CFR 93.121 et seq.) at Washington National Airport on October 18, 1986, and may not impose a limitation on the number of passengers taking off or landing at Washington National Airport.

(6)(A) Except as specified in subparagraph (B) of this paragraph, the Airports Authority shall assume all rights, liabilities, and obligations of the Metropolitan Washington Airports on June 7, 1987, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, accounts payable, and litigation related to those rights and obligations, regardless whether judgment has been entered, damages awarded, or appeal taken. The Airports Authority must cooperate in allowing representatives of the Attorney General and the Secretary adequate access to employees and records when needed for the performance of duties and powers related to the period before June 7, 1987. The Airports Authority shall assume responsibility for the Federal Aviation Administration's Master Plans for the Metropolitan Washington Airports.

(B) The procedure for disputes resolution contained in any contract entered into on behalf of the United States Government before June 7, 1987, continues to govern the performance of the contract unless otherwise agreed to by the parties to the contract. Claims for monetary damages founded in tort, by or against the Government as the owner and operator of the Metropolitan Washington Airports, arising before June 7, 1987, shall be adjudicated as if the lease had not been entered into.

(C) The Administration is responsible for reimbursing the Employees' Compensation Fund, as provided in section 8147 of title 5, for compensation paid or payable after June 7, 1987, in accordance with chapter 81 of title 5 for any injury, disability, or death due to events arising before June 7, 1987, whether or not a claim was filed or was final on that date.

(D) The Airports Authority shall continue all collective bargaining rights enjoyed by employees of the Metropolitan Washington Airports before June 7, 1987.

(7) The Comptroller General may conduct periodic audits of the activities and transactions of the Airports Authority in accordance with generally accepted management principles, and under regulations the Comptroller General may prescribe. An audit shall be conducted where the Comptroller General considers it appropriate. All records and property of the Airports Authority shall remain in possession and custody of the Airports Authority.

(8) The Airports Authority shall develop a code of ethics and financial disclosure to ensure the integrity of all decisions made by its board of directors and employees. The code shall include standards by which members of the board will decide, for purposes of section 49106(d) of this title, what constitutes a substantial financial interest and the circumstances under which an exception to the conflict of interest prohibition may be granted.

(9) A landing fee imposed for operating an aircraft or revenues derived from parking automobiles—

(A) at Washington Dulles International Airport may not be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington National Airport; and

(B) at Washington National Airport may not be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington Dulles International Airport.

(10) The Airports Authority shall compute the fees and charges for landing general aviation aircraft at the Metropolitan Washington Airports on the same basis as the landing fees for air carrier aircraft, except that the Airports Authority may require a minimum landing fee that is not more than the landing fee for aircraft weighing 12,500 pounds.

(11) The Secretary shall include other terms applicable to the parties to the lease that are consistent with, and carry out, this chapter.

(b) PAYMENTS.—Under the lease, the Airports Authority must pay to the general fund of the Treasury annually an amount, computed using the GNP Price Deflator, equal to $3,000,000 in 1987 dollars. The Secretary and the Airports Authority may renegotiate the level of lease payments attributable to inflation costs every 10 years.

(c) ENFORCEMENT OF LEASE PROVISIONS.—The district courts of the United States have jurisdiction to compel the Airports Authority and its officers and employees to comply with the terms of the lease. The Attorney General or an aggrieved party may bring an action on behalf of the Government.

(d) EXTENSION OF LEASE.—The Secretary and the Airports Authority may at any time negotiate an extension of the lease.

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2207.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49104(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §§6005(a), (d), 6007(d) (last sentence), 100 Stat. 1783–375, 1783–376, 1783–380. Oct. 18, 1986, Pub. L. 99–500, title VI, §6005(c), 100 Stat. 1783–376; Oct. 9, 1996, Pub. L. 104–264, title IX, §902, 110 Stat. 3274. Oct. 30, 1986, Pub. L. 99–591, title VI, §§6005(a), (d), 6007(d) (last sentence), 100 Stat. 3341–378, 3341–379, 3341–383. Oct. 30, 1986, Pub. L. 99–591, title VI, §6005(c), 100 Stat. 3341–379; Oct. 9, 1996, Pub. L. 104–264, title IX, §902, 110 Stat. 3274.
49104(b)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6005(b), 100 Stat. 1783–375. Oct. 30, 1986, Pub. L. 99–591, title VI, §6005(b), 100 Stat. 3341–378.
49104(c)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6005(e), 100 Stat. 1783–378. Oct. 30, 1986, Pub. L. 99–591, title VI, §6005(e), 100 Stat. 3341–381.
49104(d)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6010, 100 Stat. 1783–385. Oct. 30, 1986, Pub. L. 99–591, title VI, §6010, 100 Stat. 3341–388.

In subsection (a), before clause (1), the text of section 6005(a) and (d) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500, 100 Stat. 1783–375, 1783–378, Public Law 99–591, 100 Stat. 3341–378, 3341–381) is omitted as executed. The words ''conditions and requirements'' are omitted as surplus. In clause (5)(B), the words ''(relating to new-technology aircraft)'' and ''(relating to violations of Federal Aviation Administration regulations as Federal misdemeanors)'' are omitted as surplus. In clause (5)(C), the words ''after the date the lease takes effect'' are omitted as obsolete. In clause (6)(A), the words ''(tangible and incorporeal, present and executory)'' are omitted as surplus. The words ''The Airports Authority must'' are substituted for ''Before the date the lease takes effect, the Secretary shall also assure that the Airports Authority has agreed to'' to eliminate obsolete words. The words ''duties and powers'' are substituted for ''functions'' for consistency in the revised title and with other titles of the United States Code. In clause (7), the words ''or places'' are omitted because of 1:1. The words ''books, accounts . . . reports, files, papers'' are omitted as being included in ''reports''. In clause (8), the words ''for purposes of section 49106(d) of this title'' are added for clarity. In clause (9), before subclause (A), the words ''Notwithstanding any other provision of law'' are omitted as surplus. In clause (11), the words ''and conditions'' are omitted as being included in ''terms''.

In subsection (b), the text of section 6005(b)(2) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500, 100 Stat. 1783–375, Public Law 99–591, 100 Stat. 3341–378) is omitted as executed.

REFERENCES IN TEXT

Section 6005(a) of the Metropolitan Washington Airports Act of 1986, referred to in subsec. (a), is section 6005(a) of Pub. L. 99–500, title VI, Oct. 18, 1986, 100 Stat. 1783–375, and Pub. L. 99–591, title VI, Oct. 30, 1986, 100 Stat. 3341–378, which was classified to section 2454(a) of former Title 49, Transportation, and was repealed and reenacted as subsec. (a) of this section by Pub. L. 105–102, §§2(26), 5(b), Nov. 20, 1997, 111 Stat. 2205, 2217.

The Airport and Airway Improvement Act of 1982, referred to in subsec. (a)(3), is title V of Pub. L. 97–248, Sept. 3, 1982, 96 Stat. 671, as amended, which was classified principally to chapter 31 (§2201 et seq.) of former Title 49, Transportation, and was substantially repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as subchapter I of chapter 471 of Title 49, Transportation.

PRIOR PROVISIONS

A prior section 49104 was renumbered section 50104 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41714, 49106 of this title.

§ 49105. Capital improvements, construction, and rehabilitation

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Metropolitan Washington Airports Authority—

(1) should pursue the improvement, construction, and rehabilitation of the facilities at Washington Dulles International Airport and Washington National Airport simultaneously; and

(2) to the extent practicable, should cause the improvement, construction, and rehabilitation proposed by the Secretary of Transportation to be completed at Washington Dulles International Airport and Washington National Airport within 5 years after March 30, 1988.

(b) SECRETARY'S ASSISTANCE.—The Secretary shall assist the 3 airports serving the District of Columbia metropolitan area in planning for operational and capital improvements at those airports and shall accelerate consideration of applications for United States Government financial assistance by whichever of the 3 airports is most in need of increasing airside capacity.

(Added Pub. L. 105–102, §2(26), Nov. 20, 1997, 111 Stat. 2210.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49105(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6006(a), 100 Stat. 1783–378. Oct. 30, 1986, Pub. L. 99–591, title VI, §6006(a), 100 Stat. 3341–381.
49105(b)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, §6006(b), 100 Stat. 1783–379. Oct. 30, 1986, Pub. L. 99–591, title VI, §6006(b), 100 Stat. 3341–382.

PRIOR PROVISIONS

A prior section 49105 was renumbered section 50105 of this title.

§ 49106. Metropolitan Washington Airports Authority

(a) STATUS.—The Metropolitan Washington Airports Authority shall be—

(1) a public body corporate and politic with the powers and jurisdiction—

(A) conferred upon it jointly by the legislative authority of Virginia and the District of Columbia or by either of them and concurred in by the legislative authority of the other jurisdiction; and

(B) that at least meet the specifications of this section and section 49108 of this title;

(2) independent of Virginia and its local governments, the District of Columbia, and the United States Government; and

(3) a political subdivision constituted only to operate and improve the Metropolitan Washington Airports as primary airports serving the Metropolitan Washington area.

(b) GENERAL AUTHORITY.—(1) The Airports Authority shall be authorized—

(A) to acquire, maintain, improve, operate, protect, and promote the Metropolitan Washington Airports for public purposes;

(B) to issue bonds from time to time in its discretion for public purposes, including paying any part of the cost of airport improvements, construction, and rehabilitation and the acquisition of real and personal property, including operating equipment for the airports;

(C) to acquire real and personal property by purchase, lease, transfer, or exchange;

(D) to exercise the powers of eminent domain in Virginia that are conferred on it by Virginia;

(E) to levy fees or other charges; and

(F) to make and maintain agreements with employee organizations to the extent that the Federal Aviation Administration was authorized to do so on October 18, 1996.

(2) Bonds issued under paragraph (1)(B) of this subsection—

(A) are not a debt of Virginia, the District of Columbia, or a political subdivision of Virginia or the District of Columbia; and

(B) may be secured by the Airports Authority's revenues generally, or exclusively from the income and revenues of certain designated projects whether or not any part of the projects are financed from the proceeds of the bonds.

(c) BOARD OF DIRECTORS.—(1) The Airports Authority shall be governed by a board of directors composed of the following 13 members:

(A) 5 members appointed by the Governor of Virginia;

(B) 3 members appointed by the Mayor of the District of Columbia;

(C) 2 members appointed by the Governor of Maryland; and

(D) 3 members appointed by the President with the advice and consent of the Senate.

(2) The chairman of the board shall be appointed from among the members by majority vote of the members and shall serve until replaced by majority vote of the members.

(3) Members of the board shall be appointed by the board for 6 years, except that of the members first appointed by the President after October 9, 1996, one shall be appointed for 4 years. A member may serve after the expiration of that member's term until a successor has taken office.

(4) A member of the board—

(A) may not hold elective or appointive political office;

(B) serves without compensation except for reasonable expenses incident to board functions; and

(C) must reside within the Washington Standard Metropolitan Statistical Area, except that a member of the board appointed by the President must be a registered voter of a State other than Maryland, Virginia, or the District of Columbia.

(5) A vacancy in the board shall be filled in the manner in which the original appointment was made. A 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 that term.

(6)(A) Not more than 2 of the members of the board appointed by the President may be of the same political party.

(B) In carrying out their duties on the board, members appointed by the President shall ensure that adequate consideration is given to the national interest.

(C) The members to be appointed under paragraph (1)(D) of this subsection must be appointed before October 1, 1997. If the deadline is not met, the Secretary of Transportation and the Airports Authority are subject to the limitations of section 49108 of this title until all members referred to in paragraph (1)(D) are appointed.

(D) A member appointed by the President may be removed by the President for cause.

(7) Eight votes are required to approve bond issues and the annual budget.

(d) CONFLICTS OF INTEREST.—Members of the board and their immediate families may not be employed by or otherwise hold a substantial financial interest in any enterprise that has or is seeking a contract or agreement with the Airports Authority or is an aeronautical, aviation services, or airport services enterprise that otherwise has interests that can be directly affected by the Airports Authority. The official appointing a member may make an exception if the financial interest is completely disclosed when the member is appointed and the member does not participate in board decisions that directly affect the interest.

(e) CERTAIN ACTIONS TO BE TAKEN BY REGULATION.—An action of the Airports Authority changing, or having the effect of changing, the hours of operation of, or the type of aircraft serving, either of the Metropolitan Washington Airports may be taken only by regulation of the Airports Authority.

(f) ADMINISTRATIVE.—To assist the Secretary in carrying out this chapter, the Secretary may hire 2 staff individuals to be paid by the Airports Authority. The Airports Authority shall provide clerical and support staff that the Secretary may require.

(g) REVIEW OF CONTRACTING PROCEDURES.—The Comptroller General shall review contracts of the Airports Authority to decide whether the contracts were awarded by procedures that follow sound Government contracting principles and comply with section 49104(a)(4) of this title. The Comptroller General shall submit periodic reports of the conclusions reached as a result of the review to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2210.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49106(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6007(a), (b), 100 Stat. 1783–379. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6007(a), (b), 100 Stat. 3341–382.
49106(b)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6007(c), 100 Stat. 1783–379. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6007(c), 100 Stat. 3341–382.
49106(c)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6007(e), 100 Stat. 1783–380; Oct. 9, 1996, Pub. L. 104–264, title IX, § 903, 110 Stat. 3275. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6007(e), 100 Stat. 3341–383; Oct. 9, 1996, Pub. L. 104–264, title IX, § 903, 110 Stat. 3275.
49106(d)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6007(d) (1st, 2d sentences), 100 Stat. 1783–379. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6007(d) (1st, 2d sentences), 100 Stat. 3341–382.
49106(e)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6007(f), 100 Stat. 1783–382; Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(a), 110 Stat. 3276. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6007(f), 100 Stat. 3341–385; Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(a), 110 Stat. 3276.
49106(f)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6007(h), 100 Stat. 1783–382; Dec. 18, 1991, Pub. L. 102–240, title VII, § 7002(e), 105 Stat. 2200; Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(b), 110 Stat. 3276. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6007(h), 100 Stat. 3341–385; Dec. 18, 1991, Pub. L. 102–240, title VII, § 7002(e), 105 Stat. 2200; Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(b), 110 Stat. 3276.
49106(g)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6007(g), as added Dec. 18, 1991, Pub. L. 102–240, title VII, § 7002(h), 105 Stat. 2202; Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(a), 110 Stat. 3276. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6007(g), as added Dec. 18, 1991, Pub. L. 102–240, title VII, § 7002(h), 105 Stat. 2202; Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(a), 110 Stat. 3276.

In subsection (b)(2)(A), the words ''Virginia, the District of Columbia'' are substituted for ''either jurisdiction'' for clarity.

In subsection (c)(6)(C), the words ''the limitations described in'' are omitted as unnecessary. The word ''until'' is substituted for ''for the period beginning on October 1, 1997, and ending on the first day on which'' to eliminate unnecessary words.

In subsection (d), the words ''The Airports Authority shall be subject to a conflict-of-interest provision providing that'' are omitted as surplus.

In subsection (g), the words ''Committee on Transportation and Infrastructure'' are substituted for ''Committee on Public Works and Transportation'' because of the amendment of clause 1(q) of Rule X of the Rules of the House of Representatives by section 202(a) of H. Res. 6, approved January 4, 1995.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 49103, 49104 of this title.

§ 49107. Federal employees at Metropolitan Washington Airports

(a) LABOR AGREEMENTS.—(1) The Metropolitan Washington Airports Authority shall adopt all labor agreements that were in effect on June 7, 1987. Unless the parties otherwise agree, the agreements must be renegotiated before June 7, 1992.

(2) Employee protection arrangements made under this section shall ensure, during the 50-year lease term, the continuation of all collective bargaining rights enjoyed by transferred employees retained by the Airports Authority.

(b) CIVIL SERVICE RETIREMENT.—Any Federal employee who transferred to the Airports Authority and who on June 6, 1987, was subject to subchapter III of chapter 83 or chapter 84 of title 5, is subject to subchapter II of chapter 83 or chapter 84 for so long as continually employed by the Airports Authority without a break in service. For purposes of subchapter III of chapter 83 and chapter 84, employment by the Airports Authority without a break in continuity of service is deemed to be employment by the United States Government. The Airports Authority is the employing agency for purposes of subchapter III of chapter 83 and chapter 84 and shall contribute to the Civil Service Retirement and Disability Fund amounts required by subchapter III of chapter 83 and chapter 84.

(c) ACCESS TO RECORDS.—The Airports Authority shall allow representatives of the Secretary of Transportation adequate access to employees and employee records of the Airports Authority when needed to carry out a duty or power related to the period before June 7, 1987. The Secretary shall provide the Airports Authority access to employee records of transferring employees for appropriate purposes.

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2212.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49107(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6008(a)–(d), (f), 100 Stat. 1783–382, 1783–383. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6008(a)–(d), (f), 100 Stat. 3341–385, 3341–387.
49107(b)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6008(e), 100 Stat. 1783–383. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6008(e), 100 Stat. 3341–386.
49107(c)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6008(g), 100 Stat. 1783–384. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6008(g), 100 Stat. 3341–387.

In subsection (a)(1), the text of section 6008(a), (b)(2d and last sentences), (c), (d), and (f) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500, 100 Stat, 1783–382, 1783–383, Public Law 99–591, 100 Stat. 3341–385, 3341–386, 3341–387) is omitted as obsolete.

In subsection (c), the words ''duty or power'' are substituted for ''functions'' for consistency in the revised title and with other titles of the United States Code.

§ 49108. Limitations

After October 1, 2001, the Secretary of Transportation may not approve an application of the Metropolitan Washington Airports Authority—

(1) for an airport development project grant under subchapter I of chapter 471 of this title; or

(2) to impose a passenger facility fee under section 40117 of this title.

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2213.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49108	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6007(i), as added Oct. 9, 1996, Pub. L. 104–264, title IX, § 905, 110 Stat. 3276. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6007(i), as added Oct. 9, 1996, Pub. L. 104–264, title IX, § 905, 110 Stat. 3276.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 49106, 49112 of this title.

§ 49109. Nonstop flights

An air carrier may not operate an aircraft nonstop in air transportation between Washington National Airport and another airport that is more than 1,250 statute miles away from Washington National Airport.

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2213.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49109	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6012, 100 Stat. 1783–385. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6012, 100 Stat. 3341–388.

§ 49110. Use of Dulles Airport Access Highway

The Metropolitan Washington Airports Authority shall continue in effect and enforce section 4.2(1) and (2) of the Metropolitan Washington Airports Regulations, as in effect on February 1, 1995. The district courts of the United States have jurisdiction to compel the Airports Authority and its officers and employees to comply with this section. The Attorney General or an aggrieved party may bring an action on behalf of the United States Government.

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2213.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49110	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6013, as added Oct. 9, 1996, Pub. L. 104–264, title IX, § 906, 110 Stat. 3277. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6013, as added Oct. 9, 1996, Pub. L. 104–264, title IX, § 906, 110 Stat. 3277.

The words ''Except as provided by subsection (b)'' and ''the requirements of'' are omitted as unnecessary.

§ 49111. Relationship to and effect of other laws

(a) SAME POWERS AND RESTRICTIONS UNDER OTHER LAWS.—To ensure that the Metropolitan Washington Airports Authority has the same proprietary powers and is subject to the same restrictions under United States law as any other airport except as otherwise provided in this chapter, during the period that the lease authorized by section 6005 of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500; 100 Stat. 1783–375; Public Law 99–591; 100 Stat. 3341–378) is in effect—

(1) the Metropolitan Washington Airports are deemed to be public airports for purposes of chapter 471 of this title; and

(2) the Act of June 29, 1940 (ch. 444, 54 Stat. 686), the First Supplemental Civil Functions Appropriations Act, 1941 (ch. 780, 54 Stat. 1030), and the Act of September 7, 1950 (ch. 905, 64 Stat. 770), do not apply to the operation of the Metropolitan Washington Airports, and the Secretary of Transportation is relieved of all responsibility under those Acts.

(b) INAPPLICABILITY OF CERTAIN LAWS.—The Metropolitan Washington Airports and the Airports Authority are not subject to the requirements of any law solely by reason of the retention of the United States Government of the fee simple title to those airports.

(c) POLICE POWER.—Virginia shall have concurrent police power authority over the Metropolitan Washington Airports, and the courts of Virginia may exercise jurisdiction over Washington National Airport.

(d) PLANNING.—(1) The authority of the National Capital Planning Commission under section 5 of the Act of June 6, 1924 (40 U.S.C. 71d), does not apply to the Airports Authority.

(2) The Airports Authority shall consult with—

(A) the Commission and the Advisory Council on Historic Preservation before undertaking any major alterations to the exterior of the main terminal at Washington Dulles International Airport; and

(B) the Commission before undertaking development that would alter the skyline of Washington National Airport when viewed from the opposing shoreline of the Potomac River or from the George Washington Parkway.

(e) OPERATION LIMITATIONS.—The Administrator of the Federal Aviation Administration may not increase the number of instrument flight rule takeoffs and landings authorized for air carriers by the High Density Rule (14 CFR 93.121 et seq.) at Washington National Airport on October 18, 1986, and may not decrease the number of those takeoffs and landings except for reasons of safety.

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2213.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49111(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6009(a), 100 Stat. 1783–384. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6009(a), 100 Stat. 3341–387.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49111(b)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6009(b), 100 Stat. 1783–384; Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(c)(1), 110 Stat. 3276. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6009(b), 100 Stat. 3341–387; Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(c)(1), 110 Stat. 3276.
49111(c)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6009(c), 100 Stat. 1783–384. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6009(c), 100 Stat. 3341–387.
49111(d)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6009(d), 100 Stat. 1783–384. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6009(d), 100 Stat. 3341–387.
49111(e)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6009(e), 100 Stat. 1783–384. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6009(e), 100 Stat. 3341–388.

In subsection (a)(1), the word ''deemed'' is substituted for ''considered'' for consistency in the revised title and with other titles of the United States Code.

In subsection (e), the text of section 6009(e)(2) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500, 100 Stat. 1783–385, Public Law 99–591, 100 Stat. 3341–388) is omitted as executed.

REFERENCES IN TEXT

Section 6005 of the Metropolitan Washington Airports Act of 1986, referred to in subsec. (a), is section 6005 of Pub. L. 99–500, title VI, Oct. 18, 1986, 100 Stat. 1783–375, and Pub. L. 99–591, title VI, Oct. 30, 1986, 100 Stat. 3341–378, which was classified to section 2454 of former Title 49, Transportation, and was repealed and reenacted as this section by Pub. L. 105–102, §§ 2(26), 5(b), Nov. 20, 1997, 111 Stat. 2205, 2217.

Act of June 29, 1940, ch. 444, 54 Stat. 686, referred to in subsec. (a)(2), was classified to subchapter I (§ 2401 et seq.) of chapter 33 of former Title 49, Transportation, and was omitted from the Code when subtitles II, III, and V to X of Title 49, Transportation, were enacted by Pub. L. 103–272, July 5, 1994, 108 Stat. 745.

The First Supplemental Civil Functions Appropriations Act, 1941, referred to in subsec. (a)(2), is act Oct. 9, 1940, ch. 780, 54 Stat. 1030. For complete classification of this Act to the Code, see Tables.

Act of September 7, 1950, ch. 905, 64 Stat. 770, referred to in subsec. (a)(2), was classified to subchapter II (§ 2421 et seq.) of chapter 33 of former Title 49, Transportation, and was omitted from the Code when subtitles II, III, and V to X of Title 49, Transportation, were enacted by Pub. L. 103–272, July 5, 1994, 108 Stat. 745.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41714 of this title.

§ 49112. Separability and effect of judicial order

(a) SEPARABILITY.—If any provision of this chapter, or the application of a provision of this chapter to a person or circumstance, is held invalid, the remainder of this chapter and the application of the provision to other persons or circumstances is not affected.

(b) EFFECT OF JUDICIAL ORDER.—(1) If any provision of the Metropolitan Washington Airports Amendments Act of 1996 (title IX of Public Law 104–264; 110 Stat. 3274) or the amendments made by the Act, or the application of that provision to a person, circumstance, or venue, is held invalid by a judicial order, the Secretary of Transportation and the Metropolitan Washington Airports Authority shall be subject to section 49108 of this title from the day after the day the order is issued.

(2) Any action of the Airports Authority that was required to be submitted to the Board of Review under section 6007(f)(4) of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500; 100 Stat. 1783–380; Public Law 99–599; 100 Stat. 3341–383) before October 9, 1996, remains in effect and may not be set aside only because of a judicial order invalidating certain functions of the Board.

(Added Pub. L. 105–102, § 2(26), Nov. 20, 1997, 111 Stat. 2214.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49112(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6011, 100 Stat. 1783–385; Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(c)(2), 110 Stat. 3276. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6011, 100 Stat. 3341–388; Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(c)(2), 110 Stat. 3276.
49112(b)(1) ..	(uncodified).	Oct. 18, 1986, Pub. L. 99–500, title VI, § 6014, as added Oct. 9, 1996, Pub. L. 104–264, title IX, § 907, 110 Stat. 3277. Oct. 30, 1986, Pub. L. 99–591, title VI, § 6014, as added Oct. 9, 1996, Pub. L. 104–264, title IX, § 907, 110 Stat. 3277.
49112(b)(2) ..	(uncodified).	Oct. 9, 1996, Pub. L. 104–264, title IX, § 904(d), 110 Stat. 3276.

In subsection (a), the word ''thereby'' is omitted as surplus.

In subsection (b)(1), the words ''the limitations described in'' are omitted as unnecessary.

REFERENCES IN TEXT

The Metropolitan Washington Airports Amendments Act of 1996, referred to in subsec. (b)(1), is title IX of Pub. L. 104–264, Oct. 9, 1996, 110 Stat. 3274, which amended the Metropolitan Washington Airports Act of 1986, title VI of Pub. L. 99–500, Oct. 18, 1986, 100 Stat. 1783–373, and title VI of Pub. L. 99–591, Oct. 30, 1986, 100 Stat. 3341–376, as amended. The Metropolitan Washington Airports Act of 1986 was classified generally to subchapter III (§ 2451 et seq.) of chapter 33 of former Title 49, Transportation, and was repealed and reenacted as this chapter by Pub. L. 105–102, §§ 2(26), 5(b), Nov. 20, 1997, 111 Stat. 2205, 2217.

Section 6007(f)(4) of the Metropolitan Washington Airports Act of 1986, referred to in subsec. (b)(2), is section 6007(f)(4) of Pub. L. 99–500, title VI, Oct. 18, 1986, 100 Stat. 1783–379, and Pub. L. 99–591, title VI, Oct. 30, 1986, 100 Stat. 3341–382, which related to a Board of Review and was classified to section 2456(f)(4) of former Title 49, Transportation. Subsec. (f) of section 6007 was repealed and subsec. (g) redesignated (f) by Pub. L. 104–264, title IX, § 904(a), Oct. 9, 1996, 110 Stat. 3276. Section 6007 was subsequently repealed and reenacted as section 49106 of Title 49, Transportation, by Pub. L. 105–102, §§ 2(26), 5(b), Nov. 20, 1997, 111 Stat. 2205, 2217, and does not contain provisions relating to a Board of Review.

PART E—MISCELLANEOUS

AMENDMENTS

1996—Pub. L. 104–287, § 5(88)(A), Oct. 11, 1996, 110 Stat. 3398, redesignated part D of this subtitle as this part.

CHAPTER 501—BUY-AMERICAN PREFERENCES

Sec.
50101. Buying goods produced in the United States.
50102. Restricting contract awards because of discrimination against United States goods or services.
50103. Contract preference for domestic firms.
50104. Restriction on airport projects using products or services of foreign countries denying fair market opportunities.
50105. Fraudulent use of ''Made in America'' label.

AMENDMENTS

1996—Pub. L. 104–287, § 5(88)(B), (C), Oct. 11, 1996, 110 Stat. 3398, redesignated chapter 491 of this title as this chapter and items 49101 to 49105 as 50101 to 50105, respectively.

§ 50101. Buying goods produced in the United States

(a) PREFERENCE.—The Secretary of Transportation may obligate an amount that may be appropriated to carry out section 106(k), 44502(a)(2), or 44509, subchapter I of chapter 471 (except section 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title for a project only if steel and manufactured goods used in the project are produced in the United States.

(b) WAIVER.—The Secretary may waive subsection (a) of this section if the Secretary finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) the steel and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

(3) when procuring a facility or equipment under section 44502(a)(2) or 44509, subchapter I of chapter 471 (except section 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title—

(A) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the facility or equipment; and

(B) final assembly of the facility or equipment has occurred in the United States; or

(4) including domestic material will increase the cost of the overall project by more than 25 percent.

(c) LABOR COSTS.—In this section, labor costs involved in final assembly are not included in calculating the cost of components.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1298, § 49101; renumbered § 50101 and amended Pub. L. 104–287, § 5(88)(D), (89), Oct. 11, 1996, 110 Stat. 3398.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49101(a)	49 App.:2226a(a).	Nov. 5, 1990, Pub. L. 101–508, § 9129, 104 Stat. 1388–371.
49101(b)	49 App.:2226a(b).	
49101(c)	49 App.:2226a(c).	

In this chapter, the word ''goods'' is substituted for ''product'' and ''products'' for consistency.

In subsection (a), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The words ''after November 5, 1990'' are omitted as obsolete.

In subsection (b), before clause (1), the words ''The Secretary may waive'' are substituted for ''shall not apply'' for consistency. In clause (2), the words ''steel and goods'' are substituted for ''materials and products'' for consistency. In clause (4), the word ''contract'' is omitted as surplus.

PUB. L. 104–287, § 5(89)

This makes a clarifying amendment to 49:50101(a) and (b)(3), 50102, 50104(b)(1), and 50105, as redesignated by clause (88)(D) of this section, because 49:47106(d) was struck by section 108(1) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1573).

AMENDMENTS

1996—Pub. L. 104–287, § 5(88)(D), renumbered section 49101 of this title as this section.

Subsecs. (a), (b)(3). Pub. L. 104–287, § 5(89), substituted ''section 47127'' for ''sections 47106(d) and 47127''.

USE OF DOMESTIC PRODUCTS

Pub. L. 103–305, title III, § 305, Aug. 23, 1994, 108 Stat. 1592, provided that:

''(a) PROHIBITION AGAINST FRAUDULENT USE OF 'MADE IN AMERICA' LABELS.—(1) A person shall not intentionally affix a label bearing the inscription of 'Made in America', or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

''(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under this title [enacting section 47509 of this title, amending sections 44505 and 48102 of this title, and enacting provisions set out as notes under this section and section 40101 of this title], including any subcontract under such a contract pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, or any successor procedures thereto.

''(b) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the head of each office within the Federal Aviation Administration that conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c [41 U.S.C. 10a—10b–1], popularly known as the 'Buy American Act').

''(2) This subsection shall apply only to procurements made for which—

''(A) amounts are authorized by this title to be made available; and

''(B) solicitations for bids are issued after the date of the enactment of this Act [Aug. 23, 1994].

''(3) The Secretary, before January 1, 1995, shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

''(c) DEFINITIONS.—For the purposes of this section, the term 'domestic product' means a product—

''(1) that is manufactured or produced in the United States; and

''(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.''

Similar provisions were contained in the following prior authorization act: Pub. L. 102–581, title III, § 305, Oct. 31, 1992, 106 Stat. 4896.

PURCHASE OF AMERICAN MADE EQUIPMENT AND PRODUCTS

Pub. L. 103–305, title III, § 306, Aug. 23, 1994, 108 Stat. 1593, provided that:

''(a) SENSE OF CONGRESS.—It is the sense of Congress that any recipient of a grant under this title [enacting

section 47509 of this title, amending sections 44505 and 48102 of this title, and enacting provisions set out as notes under this section and section 40101 of this title], or under any amendment made by this title, should purchase, when available and cost-effective, American made equipment and products when expending grant monies.

''(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In allocating grants under this title, or under any amendment made by this title, the Secretary shall provide to each recipient a notice describing the statement made in subsection (a) by the Congress.''

§ 50102. Restricting contract awards because of discrimination against United States goods or services

A person or enterprise domiciled or operating under the laws of a foreign country may not make a contract or subcontract under section 106(k), 44502(a)(2), or 44509, subchapter I of chapter 471 (except section 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title or subtitle B of title IX of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508, 104 Stat. 1388–353) if the government of that country unfairly maintains, in government procurement, a significant and persistent pattern of discrimination against United States goods or services that results in identifiable harm to United States businesses, that the President identifies under section 305(g)(1)(A) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(A)).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1298, § 49102; renumbered § 50102 and amended Pub. L. 104–287, § 5(88)(D), (89), Oct. 11, 1996, 110 Stat. 3398.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49102	49 App.:2226c.	Nov. 5, 1990, Pub. L. 101–508, § 9131, 104 Stat. 1388–372; Oct. 31, 1992, Pub. L. 102–581, § 118(b), 106 Stat. 4883.

The words ''government of that country'' are substituted for ''that government'' for consistency in the revised title and with other titles of the United States Code.

PUB. L. 104–287, § 5(89)

This makes a clarifying amendment to 49:50101(a) and (b)(3), 50102, 50104(b)(1), and 50105, as redesignated by clause (88)(D) of this section, because 49:47106(d) was struck by section 108(1) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1573).

REFERENCES IN TEXT

Subtitle B of title IX of the Omnibus Budget Reconciliation Act of 1990, referred to in text, is subtitle B (§§ 9101–9131) of title IX of Pub. L. 101–508, Nov. 5, 1990, 104 Stat. 1388–353, as amended, known as the Aviation Safety and Capacity Expansion Act of 1990. Sections 9102 to 9105, 9107 to 9112(b), 9113 to 9115, 9118, 9121 to 9123, 9124 ''Sec. 613(c)'', 9125, 9127, and 9129 to 9131 of title IX of Pub. L. 101–508 were repealed by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

AMENDMENTS

1996—Pub. L. 104–287, § 5(89), substituted ''section 47127'' for ''sections 47106(d) and 47127''.

Pub. L. 104–287, § 5(88)(D), renumbered section 49102 of this title as this section.

§ 50103. Contract preference for domestic firms

(a) DEFINITIONS.—In this section—

(1) ''domestic firm'' means a business entity incorporated, and conducting business, in the United States.

(2) ''foreign firm'' means a business entity not described in clause (1) of this subsection.

(b) PREFERENCE.—Subject to subsections (c) and (d) of this section, the Administrator of the Federal Aviation Administration may make, with a domestic firm, a contract related to a grant made under section 44511, 44512, or 44513 of this title that, under competitive procedures, would be made with a foreign firm, if—

(1) the Administrator decides, and the Secretary of Commerce and the United States Trade Representative concur, that the public interest requires making the contract with the domestic firm, considering United States international obligations and trade relations;

(2) the difference between the bids submitted by the foreign firm and the domestic firm is not more than 6 percent;

(3) the final product of the domestic firm will be assembled completely in the United States; and

(4) at least 51 percent of the final product of the domestic firm will be produced in the United States.

(c) NONAPPLICATION.—Subsection (b) of this section does not apply if—

(1) compelling national security considerations require that subsection (b) of this section not apply; or

(2) the Trade Representative decides that making the contract would violate the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(d) APPLICATION TO CERTAIN GRANTS.—This section applies only to a contract related to a grant made under section 44511, 44512, or 44513 of this title for which—

(1) an amount is authorized by section 48102(a), (b), or (d) of this title to be made available for the fiscal years ending September 30, 1991, and September 30, 1992; and

(2) a solicitation for bid is issued after November 5, 1990.

(e) REPORT.—The Administrator shall submit a report to Congress on—

(1) contracts to which this section applies that are made with foreign firms in the fiscal years ending September 30, 1991, and September 30, 1992;

(2) the number of contracts that meet the requirements of subsection (b) of this section, but that the Trade Representative decides would violate the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party; and

(3) the number of contracts made under this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1298, § 49103; renumbered § 50103, Pub. L. 104–287, § 5(88)(D), Oct. 11, 1996, 110 Stat. 3398.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49103(a)	49 App.:2226d(e).	Nov. 5, 1990, Pub. L. 101–508, § 9207, 104 Stat. 1388–375.
49103(b)	49 App.:2226d(a).	
49103(c)	49 App.:2226d(b).	
49103(d)	49 App.:2226d(c).	
49103(e)	49 App.:2226d(d).	

In subsection (a), the text of 49 App.:2226d(e)(1) is omitted because the complete name of the Administrator of the Federal Aviation Administration is used the first time the term appears in a section.

In subsection (b), before clause (1), the words ''Subject to subsections (c) and (d) of this section'' are added to alert the reader to the limitations in those subsections. In clause (1), the words ''requires making the contract with the domestic firm'' are substituted for ''so requires'' for clarity. The words ''considering United States international obligations and trade relations'' are substituted for ''In determining under this subsection whether the public interest so requires, the Administrator shall take into account United States international obligations and trade relations'' to eliminate unnecessary words. In clause (4), the words ''when completely assembled'' are omitted as surplus. The words ''produced in the United States'' are substituted for ''domestically produced'' for consistency with clause (3).

In subsection (c), the words ''(1) such applicability would not be in the public interest'' are omitted as redundant to subsection (b)(1) of the revised section.

In subsection (e)(1), the words ''foreign firms'' are substituted for ''foreign entities'' for consistency in the revised section.

Subsection (e)(3) is substituted for ''the number of contracts covered under this subtitle (including the amendments made by this subtitle) and awarded based upon the parameters of this section'' to eliminate unnecessary words.

AMENDMENTS

1996—Pub. L. 104–287 renumbered section 49103 of this title as this section.

§ 50104. Restriction on airport projects using products or services of foreign countries denying fair market opportunities

(a) DEFINITION AND RULES FOR CONSTRUING SECTION.—In this section—

(1) ''project'' has the same meaning given that term in section 47102 of this title.

(2) each foreign instrumentality and each territory and possession of a foreign country administered separately for customs purposes is a separate foreign country.

(3) an article substantially produced or manufactured in a foreign country is a product of the country.

(4) a service provided by a person that is a national of a foreign country or that is controlled by a national of a foreign country is a service of the country.

(b) LIMITATION ON USE OF AVAILABLE AMOUNTS.—(1) An amount made available under subchapter I of chapter 471 of this title (except section 47127) may not be used for a project that uses a product or service of a foreign country during any period the country is on the list maintained by the United States Trade Representative under subsection (d)(1) of this section.

(2) Paragraph (1) of this subsection does not apply when the Secretary of Transportation decides that—

(A) applying paragraph (1) to the product, service, or project is not in the public interest;

(B) a product or service of the same class or type and of satisfactory quality is not produced or offered in the United States, or in a foreign country not listed under subsection (d)(1) of this section, in a sufficient and reasonably available amount; and

(C) the project cost will increase by more than 20 percent if the product or service is excluded.

(c) DECISIONS ON DENIAL OF FAIR MARKET OPPORTUNITIES.—Not later than 30 days after a report is submitted to Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the Trade Representative, for a construction project of more than $500,000 for which the government of a foreign country supplies any part of the amount, shall decide whether the foreign country denies fair market opportunities for products and suppliers of the United States in procurement or for United States bidders. In making the decision, the Trade Representative shall consider information obtained in preparing the report and other information the Trade Representative considers relevant.

(d) LIST OF COUNTRIES DENYING FAIR MARKET OPPORTUNITIES.—(1) The Trade Representative shall maintain a list of each foreign country the Trade Representative finds under subsection (c) of this section is denying fair market opportunities. The country shall remain on the list until the Trade Representative decides the country provides fair market opportunities.

(2) The Trade Representative shall publish in the Federal Register—

(A) annually the list required under paragraph (1) of this subsection; and

(B) any modification of the list made before the next list is published.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1299, § 49104; renumbered § 50104 and amended Pub. L. 104–287, § 5(88)(D), (89), Oct. 11, 1996, 110 Stat. 3398.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49104(a)(1) ..	(no source).	
49104(a) (2)–(4).	49 App.:2226(d).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 533; added Dec. 30, 1987, Pub. L. 100–223, § 115, 101 Stat. 1505.
49104(b)	49 App.:2226(a).	
49104(c)	49 App.:2226(b).	
49104(d)	49 App.:2226(c).	

Subsection (a)(1) is added for clarity.

In subsection (b)(1), the words ''subchapter I of chapter 471 of this title (except sections 47106(d) and 47127)'' are substituted for ''Act'' in section 533(a)(1) of the Airport and Airway Development Act of 1982, as added by section 115 of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Public Law 100–223, 101 Stat. 1505) to correct a mistake.

In subsection (b)(2), before clause (A), the words ''with respect to the use of a product or service in a project'' are omitted as surplus. In clause (B), the words ''or service'' are added for clarity and consist-

ency in this section. In clause (C), the words ''overall'' and ''contract'' are omitted as surplus.

In subsection (c), the words ''the date which is'', ''the date on which'', ''or not'', and ''and equitable'' are omitted as surplus.

In subsection (d)(1), the words ''finds under subsection (c) of this section is denying fair market opportunities'' are substituted for ''with respect to which an affirmative determination is made under subsection (b)'' for clarity.

In subsection (d)(2)(A), the word ''entire'' is omitted as surplus.

PUB. L. 104–287, §5(89)

This makes a clarifying amendment to 49:50101(a) and (b)(3), 50102, 50104(b)(1), and 50105, as redesignated by clause (88)(D) of this section, because 49:47106(d) was struck by section 108(1) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1573).

AMENDMENTS

1996—Pub. L. 104–287, §5(88)(D), renumbered section 49104 of this title as this section.

Subsec. (b)(1). Pub. L. 104–287, §5(89), substituted ''section 47127'' for ''sections 47106(d) and 47127''.

§ 50105. Fraudulent use of "Made in America" label

If the Secretary of Transportation decides that a person intentionally affixed a ''Made in America'' label to goods sold in or shipped to the United States that are not made in the United States, the Secretary shall declare the person ineligible, for not less than 3 nor more than 5 years, to receive a contract or grant from the United States Government related to a contract made under section 106(k), 44502(a)(2), or 44509, subchapter I of chapter 471 (except section 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title or subtitle B of title IX of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508, 104 Stat. 1388–353). The Secretary may bring a civil action to enforce this section in any district court of the United States.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1300, §49105; renumbered §50105 and amended Pub. L. 104–287, §5(88)(D), (89), Oct. 11, 1996, 110 Stat. 3398.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
49105	49 App.:2226b.	Nov. 5, 1990, Pub. L. 101–508, §9130, 104 Stat. 1388–372; Oct. 31, 1992, Pub. L. 102–581, §118(a), 106 Stat. 4883.

PUB. L. 104–287, §5(89)

This makes a clarifying amendment to 49:50101(a) and (b)(3), 50102, 50104(b)(1), and 50105, as redesignated by clause (88)(D) of this section, because 49:47106(d) was struck by section 108(1) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1573).

REFERENCES IN TEXT

Subtitle B of title IX of the Omnibus Budget Reconciliation Act of 1990, referred to in text, is subtitle B (§§9101–9131) of title IX of Pub. L. 101–508, Nov. 5, 1990, 104 Stat. 1388–353, as amended, known as the Aviation Safety and Capacity Expansion Act of 1990. Sections 9102 to 9105, 9107 to 9112(b), 9113 to 9115, 9118, 9121 to 9123, 9124 ''Sec. 613(c)'', 9125, 9127, and 9129 to 9131 of title IX of Pub. L. 101–508 were repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, Transportation, see table at the beginning of Title 49.

AMENDMENTS

1996—Pub. L. 104–287, §5(89), substituted ''section 47127'' for ''sections 47106(d) and 47127''.

Pub. L. 104–287, §5(88)(D), renumbered section 49105 of this title as this section.

SUBTITLE VIII—PIPELINES

Chapter		Sec.
601.	**Safety**	**60101**
603.	**User Fees**	**60301**
605.	**Interstate Commerce Regulation**	**60501**

CHAPTER 601—SAFETY

Sec.
60101. Definitions.
60102. General authority.
60103. Standards for liquefied natural gas pipeline facilities.
60104. Requirements and limitations.
60105. State pipeline safety program certifications.
60106. State pipeline safety agreements.
60107. State pipeline safety grants.
60108. Inspection and maintenance.
60109. High-density population areas and environmentally sensitive areas.
60110. Excess flow valves.
60111. Financial responsibility for liquefied natural gas facilities.
60112. Pipeline facilities hazardous to life and property.
60113. Customer-owned natural gas service lines.
60114. One-call notification systems.
60115. Technical safety standards committees.
60116. Public education programs.
60117. Administrative.
60118. Compliance and waivers.
60119. Judicial review.
60120. Enforcement.
60121. Actions by private persons.
60122. Civil penalties.
60123. Criminal penalties.
60124. Biennial reports.
60125. Authorization of appropriations.
60126. Risk management.
60127. Population encroachment.
60128. Dumping within pipeline rights-of-way.

AMENDMENTS

1996—Pub. L. 104–304, §§5(f)[(b)], 15(c)[(b)], 16(b), 18(b)(2), 20(e), Oct. 12, 1996, 110 Stat. 3800, 3803, 3804, substituted ''State pipeline safety program certifications'' for ''State certifications'' in item 60105, ''State pipeline safety agreements'' for ''State agreements'' in item 60106, ''State pipeline safety grants'' for ''State grants'' in item 60107, and ''Biennial reports'' for ''Annual reports'' in item 60124 and added items 60126, 60127, and 60128.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 5126, 60301 of this title; title 42 section 6991.

§ 60101. Definitions

(a) GENERAL.—In this chapter—

(1) ''existing liquefied natural gas facility''—

(A) means a liquefied natural gas facility for which an application to approve the site,

construction, or operation of the facility was filed before March 1, 1978, with—

(i) the Federal Energy Regulatory Commission (or any predecessor); or

(ii) the appropriate State or local authority, if the facility is not subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); but

(B) does not include a facility on which construction is begun after November 29, 1979, without the approval;

(2) ''gas'' means natural gas, flammable gas, or toxic or corrosive gas;

(3) ''gas pipeline facility'' includes a pipeline, a right of way, a facility, a building, or equipment used in transporting gas or treating gas during its transportation;

(4) ''hazardous liquid'' means—

(A) petroleum or a petroleum product; and

(B) a substance the Secretary of Transportation decides may pose an unreasonable risk to life or property when transported by a hazardous liquid pipeline facility in a liquid state (except for liquefied natural gas);

(5) ''hazardous liquid pipeline facility'' includes a pipeline, a right of way, a facility, a building, or equipment used or intended to be used in transporting hazardous liquid;

(6) ''interstate gas pipeline facility''—

(A) means a gas pipeline facility—

(i) used to transport gas; and

(ii) subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); but

(B) does not include a gas pipeline facility transporting gas from an interstate gas pipeline in a State to a direct sales customer in that State buying gas for its own consumption;

(7) ''interstate hazardous liquid pipeline facility'' means a hazardous liquid pipeline facility used to transport hazardous liquid in interstate or foreign commerce;

(8) ''interstate or foreign commerce''—

(A) related to gas, means commerce—

(i) between a place in a State and a place outside that State; or

(ii) that affects any commerce described in subclause (A)(i) of this clause; and

(B) related to hazardous liquid, means commerce between—

(i) a place in a State and a place outside that State; or

(ii) places in the same State through a place outside the State;

(9) ''intrastate gas pipeline facility'' means—

(A) a gas pipeline facility and transportation of gas within a State not subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); and

(B) a gas pipeline facility transporting gas from an interstate gas pipeline in a State to a direct sales customer in that State buying gas for its own consumption;

(10) ''intrastate hazardous liquid pipeline facility'' means a hazardous liquid pipeline facility that is not an interstate hazardous liquid pipeline facility;

(11) ''liquefied natural gas'' means natural gas in a liquid or semisolid state;

(12) ''liquefied natural gas accident'' means a release, burning, or explosion of liquefied natural gas from any cause, except a release, burning, or explosion that, under regulations prescribed by the Secretary, does not pose a threat to public health or safety, property, or the environment;

(13) ''liquefied natural gas conversion'' means conversion of natural gas into liquefied natural gas or conversion of liquefied natural gas into natural gas;

(14) ''liquefied natural gas pipeline facility''—

(A) means a gas pipeline facility used for transporting or storing liquefied natural gas, or for liquefied natural gas conversion, in interstate or foreign commerce; but

(B) does not include any part of a structure or equipment located in navigable waters (as defined in section 3 of the Federal Power Act (16 U.S.C. 796));

(15) ''municipality'' means a political subdivision of a State;

(16) ''new liquefied natural gas pipeline facility'' means a liquefied natural gas pipeline facility except an existing liquefied natural gas pipeline facility;

(17) ''person'', in addition to its meaning under section 1 of title 1 (except as to societies), includes a State, a municipality, and a trustee, receiver, assignee, or personal representative of a person;

(18) ''pipeline facility'' means a gas pipeline facility and a hazardous liquid pipeline facility;

(19) ''pipeline transportation'' means transporting gas and transporting hazardous liquid;

(20) ''State'' means a State of the United States, the District of Columbia, and Puerto Rico;

(21) ''transporting gas''—

(A) means the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in interstate or foreign commerce; but

(B) does not include the gathering of gas, other than gathering through regulated gathering lines, in those rural locations that are located outside the limits of any incorporated or unincorporated city, town, or village, or any other designated residential or commercial area (including a subdivision, business, shopping center, or community development) or any similar populated area that the Secretary of Transportation determines to be a nonrural area, except that the term ''transporting gas'' includes the movement of gas through regulated gathering lines;

(22) ''transporting hazardous liquid''—

(A) means the movement of hazardous liquid by pipeline, or the storage of hazardous liquid incidental to the movement of hazardous liquid by pipeline, in or affecting interstate or foreign commerce; but

(B) does not include moving hazardous liquid through—

(i) gathering lines in a rural area;

(ii) onshore production, refining, or manufacturing facilities; or

(iii) storage or in-plant piping systems associated with onshore production, refining, or manufacturing facilities;

(23) ''risk management'' means the systematic application, by the owner or operator of a pipeline facility, of management policies, procedures, finite resources, and practices to the tasks of identifying, analyzing, assessing, reducing, and controlling risk in order to protect employees, the general public, the environment, and pipeline facilities;

(24) ''risk management plan'' means a management plan utilized by a gas or hazardous liquid pipeline facility owner or operator that encompasses risk management; and

(25) ''Secretary'' means the Secretary of Transportation.

(b) GATHERING LINES.—(1)(A) Not later than October 24, 1994, the Secretary shall prescribe standards defining the term ''gathering line''.

(B) In defining ''gathering line'' for gas, the Secretary—

(i) shall consider functional and operational characteristics of the lines to be included in the definition; and

(ii) is not bound by a classification the Commission establishes under the Natural Gas Act (15 U.S.C. 717 et seq.).

(2)(A) Not later than October 24, 1995, the Secretary, if appropriate, shall prescribe standards defining the term ''regulated gathering line''. In defining the term, the Secretary shall consider factors such as location, length of line from the well site, operating pressure, throughput, and the composition of the transported gas or hazardous liquid, as appropriate, in deciding on the types of lines that functionally are gathering but should be regulated under this chapter because of specific physical characteristics.

(B)(i) The Secretary also shall consider diameter when defining ''regulated gathering line'' for hazardous liquid.

(ii) The definition of ''regulated gathering line'' for hazardous liquid may not include a crude oil gathering line that has a nominal diameter of not more than 6 inches, is operated at low pressure, and is located in a rural area that is not unusually sensitive to environmental damage.

(Pub. L. 103–272, §§1(e), 4(s), July 5, 1994, 108 Stat. 1301, 1371; Pub. L. 104–287, §5(90), Oct. 11, 1996, 110 Stat. 3398; Pub. L. 104–304, §§3, 20(f), Oct. 12, 1996, 110 Stat. 3793, 3805.)

AMENDMENT OF SUBSECTION (a)(21) AND (22)

Pub. L. 103–272, §4(s), July 5, 1994, 108 Stat. 1371, provided that, effective on the date the regulations required under subsec. (b) of this section are effective, subsection (a)(21) and (22) of this section is amended to read as follows:

(21) ''transporting gas''—

(A) means—

(i) the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in interstate or foreign commerce; and

(ii) the movement of gas through regulated gathering lines; but

(B) does not include gathering gas (except through regulated gathering lines) in a rural area outside a populated area designated by the Secretary as a nonrural area.

(22) ''transporting hazardous liquid''—

(A) means—

(i) the movement of hazardous liquid by pipeline, or the storage of hazardous liquid incidental to the movement of hazardous liquid by pipeline, in or affecting interstate or foreign commerce; and

(ii) the movement of hazardous liquid through regulated gathering lines; but

(B) does not include moving hazardous liquid through—

(i) gathering lines (except regulated gathering lines) in a rural area;

(ii) onshore production, refining, or manufacturing facilities; or

(iii) storage or in-plant piping systems associated with onshore production, refining, or manufacturing facilities.

HISTORICAL AND REVISION NOTES

PUB. L. 103–272, §1(e)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60101(a)(1) ...	49 App.:1671(10).	Aug. 12, 1968, Pub. L. 90–481, §2(10), 82 Stat. 720; Oct. 11, 1976, Pub. L. 94–477, §3(2), 90 Stat. 2073; Nov. 30, 1979, Pub. L. 96–129, §151, 93 Stat. 998.
	49 App.:1671(14).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §2(11)–(17); added Nov. 30, 1979, Pub. L. 96–129, §151, 93 Stat. 998.
	49 App.:2001(11).	Nov. 30, 1979, Pub. L. 96–129, §202(1)–(4) (1st–27th words), (5)–(9), (11), 93 Stat. 1003, 1004.
60101(a)(2) ...	49 App.:1671(2).	Aug. 12, 1968, Pub. L. 90–481, §2(1), (2), (4) (1st–32d words), (5), (6), 82 Stat. 720.
60101(a)(3) ...	49 App.:1671(4) (1st–32d words).	
60101(a)(4) ...	49 App.:2001(2).	
60101(a)(5) ...	49 App.:2001(4) (1st–27th words).	
60101(a)(6) ...	49 App.:1671(8).	Aug. 12, 1968, Pub. L. 90–481, §2(8), 82 Stat. 720; Oct. 11, 1976, Pub. L. 94–477, §3(1), 90 Stat. 2073; Nov. 30, 1979, Pub. L. 96–129, §109(b) (related to §2(8)), 93 Stat. 996.
60101(a)(7) ...	49 App.:2001(5).	
60101(a)(8)(A).	49 App.:1671(17).	
60101(a)(8)(B).	49 App.:2001(7).	
60101(a)(9) ...	49 App.:1671(9).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §2(9); added Oct. 11, 1976, Pub. L. 94–477, §3(2), 90 Stat. 2073; Nov. 30, 1979, Pub. L. 96–129, §§109(b) (related to §2(9)), 151, 93 Stat. 996, 998.
60101(a)(10) ..	49 App.:2001(6).	
60101(a)(11) ..	49 App.:1671(11).	
60101(a)(12) ..	49 App.:1671(16).	
60101(a)(13) ..	49 App.:1671(13).	
60101(a)(14) ..	49 App.:1671(12).	
60101(a)(15) ..	49 App.:1671(6). 49 App.:2001(9).	
60101(a)(16) ..	49 App.:1671(15).	
60101(a)(17) ..	49 App.:1671(1). 49 App.:2001(1).	
60101(a)(18), (19).	(no source).	
60101(a)(20) ..	49 App.:1671(5). 49 App.:2001(8).	
60101(a)(21) ..	49 App.:1671(3).	Aug. 12, 1968, Pub. L. 90–481, §2(3), 82 Stat. 720; Nov. 30, 1979, Pub. L. 96–129, §152(b)(1), 93 Stat. 1001.
60101(a)(22) ..	49 App.:2001(3).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272, § 1(e)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60101(b)	49 App.:1688.	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, § 21; added Oct. 24, 1992, Pub. L. 102–508, § 109(b), 106 Stat. 3295.
	49 App.:2016.	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, § 220; added Oct. 24, 1992, Pub. L. 102–508, § 208(b), 106 Stat. 3303.

In this chapter, the words ''liquefied natural gas'' are substituted for ''LNG'' for clarity. The word ''authority'' is substituted for ''agency'' for consistency in the revised title and with other titles of the United States Code. The words ''gas'' and ''hazardous liquid'' are added where applicable because of the restatement.

In subsection (a), before clause (1), the text of 49 App.:1671(10) and 2001(11) is omitted because the complete name of the Secretary of Transportation is used the first time the term appears in a section. The words ''As used'' are omitted as surplus. In clause (1)(A), the words ''Federal Energy Regulatory Commission'' and ''Commission'' are substituted for ''Department of Energy'' because under 42:7171(a) and 7172(a)(1) the Commission is statutorily independent of the Department and has the responsibility for siting, construction, and operating applications. In clauses (3) and (5), the words ''without limitation, new and existing'' are omitted as surplus. In clause (4)(B), the words ''or material'' are omitted as surplus. In clause (6), before subclause (A), the word ''pipeline'' is substituted for ''transmission'' for clarity and consistency. In clause (8)(A), before subclause (i), the words ''trade, traffic, transportation, exchange, or other'' are omitted as surplus. In subclause (ii), the words ''trade, transportation, exchange, or other'' are omitted as surplus. In clause (8)(B), the word ''place'' is substituted for ''point'' for clarity and consistency in the revised title. In clause (9), before subclause (A), the word ''facility'' is substituted for ''transportation'' for clarity and consistency. In clause (12), the words ''resulting from'' and the text of 49 App.:1671(16)(A)–(D) are omitted as surplus. In clause (13), the words ''(liquefaction or solidification)'' and ''(vaporization)'' are omitted as surplus. In clauses (14) and (16), the word ''pipeline'' is added for clarity. In clause (15), the words ''city, county, or any other'' are omitted as surplus. In clause (17), the words ''in addition to its meaning under section 1 of title 1 (except as to societies)'' are substituted for ''any individual, firm, joint venture, partnership, corporation, association . . . cooperative association, or joint stock association'' to eliminate unnecessary words, for clarity, and for consistency in the revised title and with other titles of the Code. Clauses (18) and (19) are added because of the restatement. In clause (20), the words ''of the United States'' are substituted for ''of the several'' for consistency in the revised title and with other titles of the Code. In clause (21)(B), the words ''outside a populated area'' are substituted for ''which lie outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area such as a subdivision, a business or shopping center, a community development, or any similar populated area'' to eliminate unnecessary words. In clause (22)(B)(i), the word ''area'' is substituted for ''locations'' for consistency.

PUB. L. 103–272, § 4(s)

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60101(a)(21), (22).	49 App.:1671 (note).	Oct. 24, 1992, Pub. L. 102–508, § 109(a), 106 Stat. 3294.
	49 App.:2001 (note).	Oct. 24, 1992, Pub. L. 102–508, § 208(a), 106 Stat. 3303.

Section 4(s) reflects an amendment to the restatement required by sections 109(a) and 208(a) of the Pipeline Safety Act of 1992 (Public Law 102–508, 106 Stat. 3294, 3303).

PUB. L. 104–287

This amends 49:60101 for consistency with the style of title 49.

REFERENCES IN TEXT

The Natural Gas Act, referred to in subsecs. (a)(1)(A)(ii), (6)(A)(ii), (9)(A) and (b)(1)(B)(ii), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§ 717 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 717w of Title 15 and Tables.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–287 inserted heading.

Subsec. (a)(1) to (20). Pub. L. 104–304, § 3(a)(1), substituted semicolon for period at end of pars. (1) to (20).

Subsec. (a)(21)(B). Pub. L. 104–304, § 3(a)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: ''does not include gathering gas in a rural area outside a populated area designated by the Secretary as a nonrural area;''.

Pub. L. 104–304, § 3(a)(1), substituted semicolon for period at end.

Subsec. (a)(22). Pub. L. 104–304, § 3(a)(1), substituted semicolon for period at end.

Subsec. (a)(23) to (25). Pub. L. 104–304, § 3(a)(3), added pars. (23) to (25).

Subsec. (b)(1)(A). Pub. L. 104–304, § 20(f), substituted ''prescribe standards defining'' for ''define by regulation''.

Subsec. (b)(2)(A). Pub. L. 104–304, §§ 3(b), 20(f), inserted '', if appropriate,'' after ''Not later than October 24, 1995, the Secretary'' and substituted ''prescribe standards defining'' for ''define by regulation''.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 4(s) of Pub. L. 103–272 provided that the amendment made by that section is effective on the date the regulation required under subsec. (b) of this section is effective.

SHORT TITLE OF 1996 AMENDMENT

Section 1 of Pub. L. 104–304 provided that: ''This Act [enacting sections 60126 to 60128 of this title, amending this section and sections 60102, 60105 to 60110, 60113 to 60118, 60123 to 60125 of this title, and enacting provisions set out as a note under section 60301 of this title] may be cited as the 'Accountable Pipeline Safety and Partnership Act of 1996'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 60102 of this title; title 18 section 1366; title 33 section 1232a; title 42 sections 9601, 9607.

§ 60102. General authority

(a)(1) MINIMUM SAFETY STANDARDS.—The Secretary of Transportation shall prescribe minimum safety standards for pipeline transportation and for pipeline facilities. The standards—

(A) apply to owners and operators of pipeline facilities;

(B) may apply to the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities; and

(C) shall include a requirement that all individuals who operate and maintain pipeline facilities shall be qualified to operate and maintain the pipeline facilities.

(2) The qualifications applicable to an individual who operates and maintains a pipeline facility shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits. The operator of a pipeline facility shall ensure that employees who operate and maintain the facility are qualified to operate and maintain the pipeline facilities.

(b) PRACTICABILITY AND SAFETY NEEDS STANDARDS.—

(1) IN GENERAL.—A standard prescribed under subsection (a) shall be—

(A) practicable; and

(B) designed to meet the need for—

(i) gas pipeline safety, or safely transporting hazardous liquids, as appropriate; and

(ii) protecting the environment.

(2) FACTORS FOR CONSIDERATION.—When prescribing any standard under this section or section 60101(b), 60103, 60108, 60109, 60110, or 60113, the Secretary shall consider—

(A) relevant available—

(i) gas pipeline safety information;

(ii) hazardous liquid pipeline safety information; and

(iii) environmental information;

(B) the appropriateness of the standard for the particular type of pipeline transportation or facility;

(C) the reasonableness of the standard;

(D) based on a risk assessment, the reasonably identifiable or estimated benefits expected to result from implementation or compliance with the standard;

(E) based on a risk assessment, the reasonably identifiable or estimated costs expected to result from implementation or compliance with the standard;

(F) comments and information received from the public; and

(G) the comments and recommendations of the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate.

(3) RISK ASSESSMENT.—In conducting a risk assessment referred to in subparagraphs (D) and (E) of paragraph (2), the Secretary shall—

(A) identify the regulatory and nonregulatory options that the Secretary considered in prescribing a proposed standard;

(B) identify the costs and benefits associated with the proposed standard;

(C) include—

(i) an explanation of the reasons for the selection of the proposed standard in lieu of the other options identified; and

(ii) with respect to each of those other options, a brief explanation of the reasons that the Secretary did not select the option; and

(D) identify technical data or other information upon which the risk assessment information and proposed standard is based.

(4) REVIEW.—

(A) IN GENERAL.—The Secretary shall—

(i) submit any risk assessment information prepared under paragraph (3) of this subsection to the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate; and

(ii) make that risk assessment information available to the general public.

(B) PEER REVIEW PANELS.—The committees referred to in subparagraph (A) shall serve as peer review panels to review risk assessment information prepared under this section. Not later than 90 days after receiving risk assessment information for review pursuant to subparagraph (A), each committee that receives that risk assessment information shall prepare and submit to the Secretary a report that includes—

(i) an evaluation of the merit of the data and methods used; and

(ii) any recommended options relating to that risk assessment information and the associated standard that the committee determines to be appropriate.

(C) REVIEW BY SECRETARY.—Not later than 90 days after receiving a report submitted by a committee under subparagraph (B), the Secretary—

(i) shall review the report;

(ii) shall provide a written response to the committee that is the author of the report concerning all significant peer review comments and recommended alternatives contained in the report; and

(iii) may revise the risk assessment and the proposed standard before promulgating the final standard.

(5) SECRETARIAL DECISIONMAKING.—Except where otherwise required by statute, the Secretary shall propose or issue a standard under this Chapter[1] only upon a reasoned determination that the benefits of the intended standard justify its costs.

(6) EXCEPTIONS FROM APPLICATION.—The requirements of subparagraphs (D) and (E) of paragraph (2) do not apply when—

(A) the standard is the product of a negotiated rulemaking, or other rulemaking including the adoption of industry standards that receives no significant adverse comment within 60 days of notice in the Federal Register;

(B) based on a recommendation (in which three-fourths of the members voting concur) by the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as applicable, the Secretary waives the requirements; or

(C) the Secretary finds, pursuant to section 553(b)(3)(B) of title 5, United States Code, that notice and public procedure are not required.

(7) REPORT.—Not later than March 31, 2000, the Secretary shall transmit to the Congress a report that—

[1] So in original. Probably should not be capitalized.

(A) describes the implementation of the risk assessment requirements of this section, including the extent to which those requirements have affected regulatory decisionmaking and pipeline safety; and

(B) includes any recommendations that the Secretary determines would make the risk assessment process conducted pursuant to the requirements under this chapter a more effective means of assessing the benefits and costs associated with alternative regulatory and nonregulatory options in prescribing standards under the Federal pipeline safety regulatory program under this chapter.

(c) PUBLIC SAFETY PROGRAM REQUIREMENTS.—(1) The Secretary shall include in the standards prescribed under subsection (a) of this section a requirement that an operator of a gas pipeline facility participate in a public safety program that—

(A) notifies an operator of proposed demolition, excavation, tunneling, or construction near or affecting the facility;

(B) requires an operator to identify a pipeline facility that may be affected by the proposed demolition, excavation, tunneling, or construction, to prevent damaging the facility; and

(C) the Secretary decides will protect a facility adequately against a hazard caused by demolition, excavation, tunneling, or construction.

(2) To the extent a public safety program referred to in paragraph (1) of this subsection is not available, the Secretary shall prescribe standards requiring an operator to take action the Secretary prescribes to provide services comparable to services that would be available under a public safety program.

(3) The Secretary may include in the standards prescribed under subsection (a) of this section a requirement that an operator of a hazardous liquid pipeline facility participate in a public safety program meeting the requirements of paragraph (1) of this subsection or maintain and carry out a damage prevention program that provides services comparable to services that would be available under a public safety program.

(4) PROMOTING PUBLIC AWARENESS.—

(A) Not later than one year after the date of enactment of the Accountable Pipeline Safety and Accountability Act of 1996,[2] and annually thereafter, the owner or operator of each interstate gas pipeline facility shall provide to the governing body of each municipality in which the interstate gas pipeline facility is located, a map identifying the location of such facility.

(B)(i) Not later than June 1, 1998, the Secretary shall survey and assess the public education programs under section 60116 and the public safety programs under section 60102(c) and determine their effectiveness and applicability as components of a model program. In particular, the survey shall include the methods by which operators notify residents of the location of the facility and its right of way, public information regarding existing One-Call programs, and appropriate procedures to be followed by residents of affected municipalities in the event of accidents involving interstate gas pipeline facilities.

(ii) Not later than one year after the survey and assessment are completed, the Secretary shall institute a rulemaking to determine the most effective public safety and education program components and promulgate if appropriate, standards implementing those components on a nationwide basis. In the event that the Secretary finds that promulgation of such standards are not appropriate, the Secretary shall report to Congress the reasons for that finding.

(d) FACILITY OPERATION INFORMATION STANDARDS.—The Secretary shall prescribe minimum standards requiring an operator of a pipeline facility subject to this chapter to maintain, to the extent practicable, information related to operating the facility as required by the standards prescribed under this chapter and, when requested, to make the information available to the Secretary and an appropriate State official as determined by the Secretary. The information shall include—

(1) the business name, address, and telephone number, including an operations emergency telephone number, of the operator;

(2) accurate maps and a supplementary geographic description, including an identification of areas described in regulations prescribed under section 60109 of this title, that show the location in the State of—

(A) major gas pipeline facilities of the operator, including transmission lines and significant distribution lines; and

(B) major hazardous liquid pipeline facilities of the operator;

(3) a description of—

(A) the characteristics of the operator's pipelines in the State; and

(B) products transported through the operator's pipelines in the State;

(4) the manual that governs operating and maintaining pipeline facilities in the State;

(5) an emergency response plan describing the operator's procedures for responding to and containing releases, including—

(A) identifying specific action the operator will take on discovering a release;

(B) liaison procedures with State and local authorities for emergency response; and

(C) communication and alert procedures for immediately notifying State and local officials at the time of a release; and

(6) other information the Secretary considers useful to inform a State of the presence of pipeline facilities and operations in the State.

(e) PIPE INVENTORY STANDARDS.—The Secretary shall prescribe minimum standards requiring an operator of a pipeline facility subject to this chapter to maintain for the Secretary, to the extent practicable, an inventory with appropriate information about the types of pipe used for the transportation of gas or hazardous liquid, as appropriate, in the operator's system and

[2] See References in Text note below.

additional information, including the material's history and the leak history of the pipe. The inventory—

(1) for a gas pipeline facility, shall include an identification of each facility passing through an area described in regulations prescribed under section 60109 of this title but shall exclude equipment used with the compression of gas; and

(2) for a hazardous liquid pipeline facility, shall include an identification of each facility and gathering line passing through an area described in regulations prescribed under section 60109 of this title, whether the facility or gathering line otherwise is subject to this chapter, but shall exclude equipment associated only with the pipeline pumps or storage facilities.

(f) STANDARDS AS ACCOMMODATING ''SMART PIGS''.—

(1) MINIMUM SAFETY STANDARDS.—The Secretary shall prescribe minimum safety standards requiring that—

(A) the design and construction of new natural gas transmission pipeline or hazardous liquid pipeline facilities, and

(B) when the replacement of existing natural gas transmission pipeline or hazardous liquid pipeline facilities or equipment is required, the replacement of such existing facilities be carried out, to the extent practicable, in a manner so as to accommodate the passage through such natural gas transmission pipeline or hazardous liquid pipeline facilities of instrumented internal inspection devices (commonly referred to as ''smart pigs''). The Secretary may extend such standards to require existing natural gas transmission pipeline or hazardous liquid pipeline facilities, whose basic construction would accommodate an instrumented internal inspection device to be modified to permit the inspection of such facilities with instrumented internal inspection devices.

(2) PERIODIC INSPECTIONS.—Not later than October 24, 1995, the Secretary shall prescribe, if necessary, additional standards requiring the periodic inspection of each pipeline the operator of the pipeline identifies under section 60109 of this title. The standards shall include any circumstances under which an inspection shall be conducted with an instrumented internal inspection device and, if the device is not required, use of an inspection method that is at least as effective as using the device in providing for the safety of the pipeline.

(g) EFFECTIVE DATES.—A standard prescribed under this section and section 60110 of this title is effective on the 30th day after the Secretary prescribes the standard. However, the Secretary for good cause may prescribe a different effective date when required because of the time reasonably necessary to comply with the standard. The different date must be specified in the regulation prescribing the standard.

(h) SAFETY CONDITION REPORTS.—(1) The Secretary shall prescribe regulations requiring each operator of a pipeline facility (except a master meter) to submit to the Secretary a written report on any—

(A) condition that is a hazard to life, property, or the environment; and

(B) safety-related condition that causes or has caused a significant change or restriction in the operation of a pipeline facility.

(2) The Secretary must receive the report not later than 5 working days after a representative of a person to which this section applies first establishes that the condition exists. Notice of the condition shall be given concurrently to appropriate State authorities.

(i) CARBON DIOXIDE REGULATION.—The Secretary shall regulate carbon dioxide transported by a hazardous liquid pipeline facility. The Secretary shall prescribe standards related to hazardous liquid to ensure the safe transportation of carbon dioxide by such a facility.

(j) EMERGENCY FLOW RESTRICTING DEVICES.—(1) Not later than October 24, 1994, the Secretary shall survey and assess the effectiveness of emergency flow restricting devices (including remotely controlled valves and check valves) and other procedures, systems, and equipment used to detect and locate hazardous liquid pipeline ruptures and minimize product releases from hazardous liquid pipeline facilities.

(2) Not later than 2 years after the survey and assessment are completed, the Secretary shall prescribe standards on the circumstances under which an operator of a hazardous liquid pipeline facility must use an emergency flow restricting device or other procedure, system, or equipment described in paragraph (1) of this subsection on the facility.

(3) REMOTELY CONTROLLED VALVES.—(A) Not later than June 1, 1998, the Secretary shall survey and assess the effectiveness of remotely controlled valves to shut off the flow of natural gas in the event of a rupture of an interstate natural gas pipeline facility and shall make a determination about whether the use of remotely controlled valves is technically and economically feasible and would reduce risks associated with a rupture of an interstate natural gas pipeline facility.

(B) Not later than one year after the survey and assessment are completed, if the Secretary has determined that the use of remotely controlled valves is technically and economically feasible and would reduce risks associated with a rupture of an interstate natural gas pipeline facility, the Secretary shall prescribe standards under which an operator of an interstate natural gas pipeline facility must use a remotely controlled valve. These standards shall include, but not be limited to, requirements for high-density population areas.

(k) PROHIBITION AGAINST LOW INTERNAL STRESS EXCEPTION.—The Secretary may not provide an exception to this chapter for a hazardous liquid pipeline facility only because the facility operates at low internal stress.

(*l*) UPDATING STANDARDS.—The Secretary shall, to the extent appropriate and practicable, update incorporated industry standards that have been adopted as part of the Federal pipeline safety regulatory program under this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1304; Pub. L. 104–304, §§ 4, 20(g), Oct. 12, 1996, 110 Stat. 3794, 3805.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60102(a)(1) ..	49 App.:1672(a)(1) (1st, 2d sentences).	Aug. 12, 1968, Pub. L. 90–481, §3(a)(1) (1st, 2d, 7th, 8th sentences), 82 Stat. 721; Oct. 11, 1976, Pub. L. 94–477, §4(1), 90 Stat. 2073; Nov. 30, 1979, Pub. L. 96–129, §§101(a), 109(c)–(e), 93 Stat. 990, 996; Oct. 24, 1992, Pub. L. 102–508, §101(a)(1), (2), 106 Stat. 3290.
	49 App.:1672(a)(1) (3d sentence).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(a)(1) (3d sentence); added Oct. 31, 1988, Pub. L. 100–561, §101, 102 Stat. 2806; Oct. 24, 1992, Pub. L. 102–508, §106(1), 102 Stat. 3293.
	49 App.:2002(a)(1) (1st, 2d sentences).	Nov. 30, 1979, Pub. L. 96–129, 203(a)(1), 93 Stat. 1004; Oct. 22, 1986, Pub. L. 99–516, §3(b)(1)(A), 100 Stat. 2966; Oct. 24, 1992, Pub. L. 102–508, §201(a)(1), 106 Stat. 3299.
	49 App.:2002(c) (1st sentence).	Nov. 30, 1979, Pub. L. 96–129, §203(c) (1st sentence), (e), (f), 93 Stat. 1004.
	49 App.:2002(c) (2d sentence).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(c) (2d sentence); added Oct. 31, 1988, Pub. L. 100–561, §201, 102 Stat. 2809; Oct. 24, 1992, Pub. L. 102–508, §205(1), 106 Stat. 3302.
60102(a)(2) ..	49 App.:1672(a)(1) (4th, 5th sentences).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(a)(1) (4th, 5th sentences); added Oct. 24, 1992, Pub. L. 102–508, §106(2), 102 Stat. 3293.
	49 App.:2002(c) (3d, 4th sentences).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(c) (3d, 4th sentences); added Oct. 24, 1992, Pub. L. 102–508, §205(2), 106 Stat. 3302.
60102(b)	49 App.:1672(a)(1) (7th, 8th sentences).	
	49 App.:2002(a)(1) (last sentence).	
	49 App.:2002(b) (1st sentence).	Nov. 30, 1979, Pub. L. 96–129, §203(b) (1st sentence), 93 Stat. 1004; Oct. 24, 1992, Pub. L. 102–508, §201(a)(3), 106 Stat. 3300.
60102(c)(1), (2).	49 App.:1672(a)(2).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(a)(2); added Nov. 30, 1979, Pub. L. 96–129, §§101(a), 109(c), 93 Stat. 990, 996.
60102(c)(3) ..	49 App.:2002(e).	
60102(d)	49 App.:1672(e).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(e); added Oct. 31, 1988, Pub. L. 100–561, §102, 102 Stat. 2806; Oct. 24, 1992, Pub. L. 102–508, §102(b), 106 Stat. 3291.
	49 App.:2002(i).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(i); added Oct. 31, 1988, Pub. L. 100–561, §202, 102 Stat. 2810; Oct. 24, 1992, Pub. L. 102–508, §202(b), 106 Stat. 3301.
60102(e)	49 App.:1672(f).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(f); added Oct. 31, 1988, Pub. L. 100–561, §102, 102 Stat. 2806; Oct. 24, 1992, Pub. L. 102–508, §102(a)(1), 106 Stat. 3290.
	49 App.:2002(j).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(j); added Oct. 31, 1988, Pub. L. 100–561, §202, 102 Stat. 2810; Oct. 24, 1992, Pub. L. 102–508, §202(a)(1), 106 Stat. 3300.
60102(f)	49 App.:1672(g).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(g); added Oct. 31, 1988, Pub. L. 100–561, §108(b), 102 Stat. 2808; Oct. 24, 1992, Pub. L. 102–508, §103, 106 Stat. 3291.
	49 App.:2002(k).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(k); added Oct. 31, 1988, Pub. L. 100–561, §207(b), 102 Stat. 2812; Oct. 24, 1992, Pub. L. 102–508, §203, 106 Stat. 3301.
60102(g)	49 App.:1672(b).	Aug. 12, 1968, Pub. L. 90–481, §3(b), 82 Stat. 721; Nov. 30, 1979, Pub. L. 96–129, §109(c), (f), 93 Stat. 996.
	49 App.:2002(f).	
60102(h)	49 App.:1672(a)(3).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(a)(3); added Oct. 22, 1986, Pub. L. 99–516, §3(a)(1), 100 Stat. 2965; Oct. 24, 1992, Pub. L. 102–508, §101(a)(3), 106 Stat. 3290.
	49 App.:2002(a)(2).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(a)(2); added Oct. 22, 1986, Pub. L. 99–516, §3(b)(1)(B), 100 Stat. 2966; Oct. 24, 1992, Pub. L. 102–508, §201(a)(2), 106 Stat. 3300.
60102(i)	49 App.:2015.	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §219; added Oct. 31, 1988, Pub. L. 100–561, §211(a), 102 Stat. 2813.
	49 App.:2015 (note).	Oct. 31, 1988, Pub. L. 100–561, §211(c), 102 Stat. 2813.
60102(j)	49 App.:2002(n).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(n); added Oct. 24, 1992, Pub. L. 102–508, §212, 106 Stat. 3304.
60102(k)	49 App.:2002(b) (last sentence).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(b) (last sentence); added Oct. 24, 1992, Pub. L. 102–508, §206, 106 Stat. 3302.

In this section, the word ''Federal'' is omitted as surplus.

In subsection (a)(1), before clause (A), the word ''prescribe'' is substituted for ''by regulation, establish'' for consistency in the revised title and with other titles of the United States Code. Standards are made applicable to transporters of gas and to owners and operators of gas pipeline facilities because of 49 App.:1677(a)(1), restated in section 60118 of the revised title.

In subsection (b), before clause (1), the words ''Except as provided in section 60103 of this title'' are added for clarity. In clause (3), the word ''proposed'' is omitted as surplus.

In subsection (c)(1), before clause (A), the words ''Not later than 12 months after November 30, 1979'' are omitted as executed. The word ''gas'' is added because of the restatement. In clause (B), the word ''specific'' is omitted as surplus. In clause (C), the words ''will protect'' are substituted for ''is being carried out in a manner . . . to assure protection'' to eliminate unnecessary words.

In subsection (c)(2) and (3), the words ''to the public with respect to that operator's pipeline facilities which are'' are omitted as surplus.

In subsection (c)(2), the word ''prescribe'' is substituted for ''provide'' for consistency in the revised title and with other titles of the Code.

In subsection (c)(3), the words ''participate in a public safety program meeting the requirements of paragraph (1) of this subsection'' are substituted for 49 App.:2002(e)(1) to eliminate unnecessary words.

In subsection (d), before clause (1), the words ''Not later than 1 year after October 31, 1988'' are omitted as obsolete. The word ''prescribe'' is substituted for ''establish by regulation'' for consistency in the revised title and with other titles of the Code. The word ''maintain'' is substituted for ''provide, and revise as necessary'' and ''completed and maintained'' to eliminate unnecessary words. The words ''as the case may be'' are omitted as surplus. In clause (2), before subclause (A), the words ''map or'' and ''appropriate'' are omitted as surplus. In clause (5)(B), the word ''government'' is

omitted as surplus and for consistency in this chapter. In clause (6), the words ''and necessary'' are omitted as surplus.

In subsections (e) and (f), the word ''prescribe'' is substituted for ''by regulation, establish'' for consistency in the revised title and with other titles of the Code.

In subsection (e), before clause (1), the words ''not later than 1 year after October 31, 1988'' are omitted as obsolete. The words ''complete and'' and ''and to revise as appropriate thereafter'' are omitted as surplus.

In subsections (e)(2) and (k), the words ''regulation under'' are omitted as surplus.

In subsection (g), the words ''and amendments thereto'' and ''recited'' are omitted as surplus. The word ''different'' is substituted for ''earlier or later'' to eliminate unnecessary words. The words ''or amending'' are omitted as surplus.

In subsection (h)(1), before clause (A), the words ''Not later than 12 months after October 22, 1986'' are omitted as obsolete.

In subsection (i), the words ''In addition to hazardous liquids'', ''under this chapter'', and ''as necessary and appropriate'' are omitted as surplus.

In subsection (k), the words ''In exercising any discretion under this chapter'' are omitted as surplus. The word ''because'' is substituted for ''on the basis of the fact that'' to eliminate unnecessary words.

REFERENCES IN TEXT

The date of enactment of the Accountable Pipeline Safety and Accountability Act of 1996, referred to in subsec. (c)(4)(A), probably means the date of enactment of the Accountable Pipeline Safety and Partnership Act of 1996, Pub. L. 104–304, which amended this section and was approved Oct. 12, 1996.

AMENDMENTS

1996—Subsec. (a)(1)(A). Pub. L. 104–304, §4(a)(1), struck out ''transporters of gas and hazardous liquid and to'' after ''apply to''.

Subsec. (a)(1)(C). Pub. L. 104–304, §4(a)(2), added subpar. (C) and struck out former subpar. (C) which read as follows: ''shall include a requirement that all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to operate and maintain those facilities.''

Subsec. (a)(2). Pub. L. 104–304, §4(a)(3), added par. (2) and struck out former par. (2) which read as follows: ''As the Secretary considers appropriate, the operator of a pipeline facility may make the certification under paragraph (1)(C) of this subsection. Testing and certification under paragraph (1)(C) shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits.''

Subsec. (b). Pub. L. 104–304, §4(b), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''A standard prescribed under subsection (a) of this section shall be practicable and designed to meet the need for gas pipeline safety, for safely transporting hazardous liquid, and for protecting the environment. Except as provided in section 60103 of this title, when prescribing the standard the Secretary shall consider—

''(1) relevant available—

''(A) gas pipeline safety information; or

''(B) hazardous liquid pipeline information;

''(2) the appropriateness of the standard for the particular type of pipeline transportation or facility;

''(3) the reasonableness of the standard; and

''(4) the extent to which the standard will contribute to public safety and the protection of the environment.''

Subsec. (c)(4). Pub. L. 104–304, §4(g), added par. (4).

Subsec. (d). Pub. L. 104–304, §4(c), inserted ''as required by the standards prescribed under this chapter'' after ''operating the facility'', substituted ''to make the information available'' for ''to provide the information'', and inserted ''as determined by the Secretary'' after ''to the Secretary and an appropriate State official''.

Subsec. (e). Pub. L. 104–304, §4(d)(2), substituted ''transportation'' for ''transmission'' in introductory provisions.

Pub. L. 104–304, §4(d)(1), in introductory provisions, directed striking out ''and, to the extent the Secretary considers necessary, an operator of a gathering line that is not a regulated gather line (as defined under section 60101(b)(2) of this title),'' after ''subject to this chapter'', which was executed by striking out text which read in part ''regulated gathering line'' instead of ''regulated gather line'', to reflect the probable intent of Congress.

Subsec. (f)(1). Pub. L. 104–304, §4(e)(1), added heading and text of par. (1) and struck out former par. (1) which read as follows: ''The Secretary shall prescribe minimum safety standards requiring that the design and construction of a new gas pipeline transmission facility or hazardous liquid pipeline facility, and the required replacement of an existing gas pipeline transmission facility, hazardous liquid pipeline facility, or equipment, be carried out, to the extent practicable, in a way that accommodates the passage through the facility of an instrumented internal inspection device (commonly referred to as a 'smart pig'). The Secretary may apply the standard to an existing gas or hazardous liquid transmission facility and require the facility to be changed to allow the facility to be inspected with an instrumented internal inspection device if the basic construction of the facility will accommodate the device.''

Subsec. (f)(2). Pub. L. 104–304, §§4(e)(2), 20(g), inserted heading, realigned margins, inserted '', if necessary, additional'' after ''the Secretary shall prescribe'', and substituted ''standards'' for ''regulations'' in two places.

Subsecs. (i), (j)(2). Pub. L. 104–304, §20(g), substituted ''standards'' for ''regulations''.

Subsec. (j)(3). Pub. L. 104–304, §4(h), added par. (3).

Subsec. (*l*). Pub. L. 104–304, §4(f), added subsec. (*l*).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 60103, 60108, 60109 of this title.

§ 60103. Standards for liquefied natural gas pipeline facilities

(a) LOCATION STANDARDS.—The Secretary of Transportation shall prescribe minimum safety standards for deciding on the location of a new liquefied natural gas pipeline facility. In prescribing a standard, the Secretary shall consider the—

(1) kind and use of the facility;

(2) existing and projected population and demographic characteristics of the location;

(3) existing and proposed land use near the location;

(4) natural physical aspects of the location;

(5) medical, law enforcement, and fire prevention capabilities near the location that can cope with a risk caused by the facility; and

(6) need to encourage remote siting.

(b) DESIGN, INSTALLATION, CONSTRUCTION, INSPECTION, AND TESTING STANDARDS.—The Secretary of Transportation shall prescribe minimum safety standards for designing, installing, constructing, initially inspecting, and initially testing a new liquefied natural gas pipeline facility. When prescribing a standard, the Secretary shall consider—

(1) the characteristics of material to be used in constructing the facility and of alternative material;

(2) design factors;

(3) the characteristics of the liquefied natural gas to be stored or converted at, or transported by, the facility; and

(4) the public safety factors of the design and of alternative designs, particularly the ability to prevent and contain a liquefied natural gas spill.

(c) NONAPPLICATION.—(1) Except as provided in paragraph (2) of this subsection, a design, location, installation, construction, initial inspection, or initial testing standard prescribed under this chapter after March 1, 1978, does not apply to an existing liquefied natural gas pipeline facility if the standard is to be applied because of authority given—

(A) under this chapter; or

(B) under another law, and the standard is not prescribed at the time the authority is applied.

(2)(A) Any design, installation, construction, initial inspection, or initial testing standard prescribed under this chapter after March 1, 1978, may provide that the standard applies to any part of a replacement component of a liquefied natural gas pipeline facility if the component or part is placed in service after the standard is prescribed and application of the standard—

(i) does not make the component or part incompatible with other components or parts; or

(ii) is not impracticable otherwise.

(B) Any location standard prescribed under this chapter after March 1, 1978, does not apply to any part of a replacement component of an existing liquefied natural gas pipeline facility.

(3) A design, installation, construction, initial inspection, or initial testing standard does not apply to a liquefied natural gas pipeline facility existing when the standard is adopted.

(d) OPERATION AND MAINTENANCE STANDARDS.—The Secretary of Transportation shall prescribe minimum operating and maintenance standards for a liquefied natural gas pipeline facility. In prescribing a standard, the Secretary shall consider—

(1) the conditions, features, and type of equipment and structures that make up or are used in connection with the facility;

(2) the fire prevention and containment equipment at the facility;

(3) security measures to prevent an intentional act that could cause a liquefied natural gas accident;

(4) maintenance procedures and equipment;

(5) the training of personnel in matters specified by this subsection; and

(6) other factors and conditions related to the safe handling of liquefied natural gas.

(e) EFFECTIVE DATES.—A standard prescribed under this section is effective on the 30th day after the Secretary of Transportation prescribes the standard. However, the Secretary for good cause may prescribe a different effective date when required because of the time reasonably necessary to comply with the standard. The different date must be specified in the regulation prescribing the standard.

(f) CONTINGENCY PLANS.—A new liquefied natural gas pipeline facility may be operated only after the operator submits an adequate contingency plan that states the action to be taken if a liquefied natural gas accident occurs. The Secretary of Energy or appropriate State or local authority shall decide if the plan is adequate.

(g) EFFECT ON OTHER STANDARDS.—This section does not preclude applying a standard prescribed under section 60102 of this title to a gas pipeline facility (except a liquefied natural gas pipeline facility) associated with a liquefied natural gas pipeline facility.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1307.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60103(a)	49 App.:1674a(a)(1)(A), (d)(1), (e).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, § 6; added Nov. 30, 1979, Pub. L. 96–129, § 152(a), 93 Stat. 999.
60103(b)	49 App.:1674a(a)(1)(B), (2), (d)(2), (e).	
60103(c)(1), (2).	49 App.:1674a(c)(1).	
60103(c)(3) ..	49 App.:1674a(c)(3).	
60103(d)	49 App.:1674a(b), (d)(3), (e).	
60103(e)	49 App.:1674a(f).	
60103(f)	49 App.:1674a(a)(3).	
60103(g)	49 App.:1674a(c)(2).	

In subsections (a), (b), and (d), the words ''general safety'' are omitted as surplus. The text of 49 App.:1674a(e) is omitted for consistency in the revised title and with other titles of the United States Code.

In subsections (a) and (b), before each clause (1), the words ''Not later than 180 days after November 30, 1979'' are omitted as executed. The word ''prescribe'' is substituted for ''establish by regulation'' for consistency in the revised title and with other titles of the Code.

In subsection (a), before clause (1), the words ''with respect to standards relating to the location of any new LNG facility'' are omitted because of the restatement. In clause (2), the word ''involved'' is omitted as surplus. In clause (4), the words ''meteorological, geological, topographical, seismic, and other'' are omitted as surplus. In clause (5), the word ''existing'' is omitted as surplus.

In subsection (b), before clause (1), the text of 49 App.:1674a(a)(2) (1st sentence) is omitted as executed. The text of 49 App.:1674a(a)(2) (last sentence) is omitted as surplus. The words ''with respect to standards applicable to the design, installation, construction, initial inspection, and initial testing of any new LNG facility'' are omitted because of the restatement. In clause (1), the words ''thermal resistance and other'' are omitted as surplus. In clause (2), the words ''(such as multiple diking, insulated concrete, and vapor containment barriers)'' are omitted as surplus. In clause (3), the words ''(for example, whether it is to be in a liquid or semisolid state)'' are omitted as surplus. In clause (4), the words ''under such a design'' are omitted as surplus.

In subsection (c)(1) and (2), the word ''prescribed'' is substituted for ''issued'' for consistency in the revised title and with other titles of the Code.

In subsection (c)(1), before clause (A), the words ''if the standard is to be applied'' are added for clarity. The word ''either'' is omitted as surplus. In clause (B), the word ''Federal'' is omitted as surplus. The words ''the authority is applied'' are substituted for ''such authority was exercised'' for clarity.

In subsection (c)(2)(A), before clause (i), the words ''design, installation, construction, initial inspection, or initial testing standard prescribed under this chapter after March 1, 1978'' are substituted for ''Any such standard (other than one affecting location)'' for clarity. In clause (i), the words ''of the facility involved'' are omitted as surplus. In clause (ii), the word ''otherwise'' is omitted as surplus.

In subsection (d), before clause (1), the words ''Not later than 270 days after November 30, 1979'' are omitted as executed. The words ''with respect to standards for the operation and maintance [sic] of any LNG facility'' are omitted because of the restatement. In clause (3), the words ''to be used with respect to the operation of such facility'' and ''sabotage or other'' are omitted as surplus.

In subsection (e), the text of 49 App.:1674a(f) (related to 49 App.:1672(a)(1) (8th, last sentences), (c), and (d)) is omitted as surplus because those provisions apply to all standards prescribed under the Natural Gas Pipeline Safety Act of 1968 (Public Law 90–481, 82 Stat. 720).

In subsection (f), the words ''Secretary of Energy'' are substituted for ''Department of Energy'' because of 42:7131. The words ''or local'' are added for clarity. The words ''in the case of any facility not subject to the jurisdiction of the Department under the Natural Gas Act'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 60102, 60122 of this title.

§ 60104. Requirements and limitations

(a) OPPORTUNITY TO PRESENT VIEWS.—The Secretary of Transportation shall give an interested person an opportunity to make oral and written presentations of information, views, and arguments when prescribing a standard under this chapter.

(b) NONAPPLICATION.—A design, installation, construction, initial inspection, or initial testing standard does not apply to a pipeline facility existing when the standard is adopted.

(c) PREEMPTION.—A State authority that has submitted a current certification under section 60105(a) of this title may adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum standards prescribed under this chapter. A State authority may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation.

(d) CONSULTATION.—(1) When continuity of gas service is affected by prescribing a standard or waiving compliance with standards under this chapter, the Secretary of Transportation shall consult with and advise the Federal Energy Regulatory Commission or a State authority having jurisdiction over the affected gas pipeline facility before prescribing the standard or waiving compliance. The Secretary shall delay the effective date of the standard or waiver until the Commission or State authority has a reasonable opportunity to grant an authorization it considers necessary.

(2) In a proceeding under section 3 or 7 of the Natural Gas Act (15 U.S.C. 717b or 717f), each applicant for authority to import natural gas or to establish, construct, operate, or extend a gas pipeline facility subject to an applicable safety standard shall certify that it will design, install, inspect, test, construct, operate, replace, and maintain a gas pipeline facility under those standards and plans for inspection and maintenance under section 60108 of this title. The certification is binding on the Secretary of Energy and the Commission except when an appropriate enforcement agency has given timely written notice to the Commission that the applicant has violated a standard prescribed under this chapter.

(e) LOCATION AND ROUTING OF FACILITIES.—This chapter does not authorize the Secretary of Transportation to prescribe the location or routing of a pipeline facility.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1308.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60104(a)	49 App.:1672(c).	Aug. 12, 1968, Pub. L. 90–481, § 3(c), 82 Stat. 721; Nov. 30, 1979, Pub. L. 96–129, §§ 104(a)(2), (c), 109(c), 93 Stat. 992, 994, 996.
	49 App.:2002(g).	Nov. 30, 1979, Pub. L. 96–129, §§ 202(4) (28th–last words), 203(c) (last sentence), (g), 93 Stat. 1003, 1004, 1005.
60104(b)	49 App.:1672(a)(1) (6th sentence).	Aug. 12, 1968, Pub. L. 90–481, § 3(a)(1) (6th, 9th, last sentences), 82 Stat. 721; Oct. 11, 1976, Pub. L. 94–477, § 4(2), 90 Stat. 2073; Nov. 30, 1979, Pub. L. 96–129, §§ 101(a), 109(c), (e), 93 Stat. 990, 996; Oct. 24, 1992, Pub. L. 102–508, § 116, 106 Stat. 3298.
	49 App.:2002(c) (last sentence).	
60104(c)	49 App.:1672(a)(1) (9th, last sentences).	
	49 App.:2002(d).	Nov. 30, 1979, Pub. L. 96–129, § 203(d), 93 Stat. 1004; Oct. 24, 1992, Pub. L. 102–508, § 215, 106 Stat. 3305.
60104(d)	49 App.:1676(a).	Aug. 12, 1968, Pub. L. 90–481, § 9(a), 82 Stat. 725; Nov. 30, 1979, Pub. L. 96–129, §§ 109(i), 152(a), (b)(3), 93 Stat. 997, 999, 1001; Oct. 30, 1988, Pub. L. 100–561, § 105(1), 102 Stat. 2807.
60104(e)	49 App.:1671(4) (33d–last words).	Aug. 12, 1968, Pub. L. 90–481, § 2(4) (33d–last words), 82 Stat. 720.
	49 App.:2001(4) (28th–last words).	

Subsection (a) is substituted for 49 App.:1672(c) (last sentence) and 2002(g) (last sentence) to eliminate unnecessary words. The text of 49 App.:1672(c) (1st sentence) and 2002(g) (1st sentence) is omitted as unnecessary because 5:ch. 5, subch. II applies unless otherwise stated.

In subsection (c), the words ''prescribed under this chapter'' are added for clarity. The words ''after the Federal minimum standards become effective'' in 49 App.:1672(a) (last sentence) are omitted as obsolete.

In subsection (d)(1), the words ''waiving compliance'' are substituted for ''action upon application for waiver'' and ''acting on the waiver application'' to eliminate unnecessary words. The words ''the provisions of'' are omitted as surplus. The word ''authority'' is substituted for ''commission'' for consistency in the revised title and with other titles of the Code.

In subsection (d)(2), the words ''and conclusive'' are omitted as being included in ''binding''. The words ''Secretary of Energy'' are substituted for ''Department of Energy'' because of 42:7231.

§ 60105. State pipeline safety program certifications

(a) GENERAL REQUIREMENTS AND SUBMISSION.—Except as provided in this section and sections 60114 and 60121 of this title, the Secretary of Transportation may not prescribe or enforce safety standards and practices for an intrastate pipeline facility or intrastate pipeline transportation to the extent that the safety standards and practices are regulated by a State authority (including a municipality if the standards and

practices apply to intrastate gas pipeline transportation) that submits to the Secretary annually a certification for the facilities and transportation that complies with subsections (b) and (c) of this section.

(b) CONTENTS.—Each certification submitted under subsection (a) of this section shall state that the State authority—

(1) has regulatory jurisdiction over the standards and practices to which the certification applies;

(2) has adopted, by the date of certification, each applicable standard prescribed under this chapter or, if a standard under this chapter was prescribed not later than 120 days before certification, is taking steps to adopt that standard;

(3) is enforcing each adopted standard through ways that include inspections conducted by State employees meeting the qualifications the Secretary prescribes under section 60107(d)(1)(C) of this title;

(4) is encouraging and promoting programs designed to prevent damage by demolition, excavation, tunneling, or construction activity to the pipeline facilities to which the certification applies;

(5) may require record maintenance, reporting, and inspection substantially the same as provided under section 60117 of this title;

(6) may require that plans for inspection and maintenance under section 60108 (a) and (b) of this title be filed for approval; and

(7) may enforce safety standards of the authority under a law of the State by injunctive relief and civil penalties substantially the same as provided under sections 60120 and 60122(a)(1) and (b)–(f) of this title.

(c) REPORTS.—(1) Each certification submitted under subsection (a) of this section shall include a report that contains—

(A) the name and address of each person to whom the certification applies that is subject to the safety jurisdiction of the State authority;

(B) each accident or incident reported during the prior 12 months by that person involving a fatality, personal injury requiring hospitalization, or property damage or loss of more than an amount the Secretary establishes (even if the person sustaining the fatality, personal injury, or property damage or loss is not subject to the safety jurisdiction of the authority), any other accident the authority considers significant, and a summary of the investigation by the authority of the cause and circumstances surrounding the accident or incident;

(C) the record maintenance, reporting, and inspection practices conducted by the authority to enforce compliance with safety standards prescribed under this chapter to which the certification applies, including the number of inspections of pipeline facilities the authority made during the prior 12 months; and

(D) any other information the Secretary requires.

(2) The report included in the first certification submitted under subsection (a) of this section is only required to state information available at the time of certification.

(d) APPLICATION.—A certification in effect under this section does not apply to safety standards prescribed under this chapter after the date of certification. This chapter applies to each applicable safety standard prescribed after the date of certification until the State authority adopts the standard and submits the appropriate certification to the Secretary under subsection (a) of this section.

(e) MONITORING.—The Secretary may monitor a safety program established under this section to ensure that the program complies with the certification. A State authority shall cooperate with the Secretary under this subsection.

(f) REJECTIONS OF CERTIFICATION.—If after receiving a certification the Secretary decides the State authority is not enforcing satisfactorily compliance with applicable safety standards prescribed under this chapter, the Secretary may reject the certification, assert United States Government jurisdiction, or take other appropriate action to achieve adequate enforcement. The Secretary shall give the authority notice and an opportunity for a hearing before taking final action under this subsection. When notice is given, the burden of proof is on the authority to demonstrate that it is enforcing satisfactorily compliance with the prescribed standards.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1309; Pub. L. 104–304, § 20(a), Oct. 12, 1996, 110 Stat. 3804.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60105(a)	49 App.:1674(a) (1st sentence words before ''that such State agency'').	Aug. 12, 1968, Pub. L. 90–481, § 5(a), 82 Stat. 722; Aug. 22, 1972, Pub. L. 92–401, § 1, 86 Stat. 616; Oct. 11, 1976, Pub. L. 94–477, § 5(a), 90 Stat. 2073; Nov. 30, 1979, Pub. L. 96–129, §§ 101(b), 103(a), (b)(3), 109(g), (h)(1), 93 Stat. 990, 991, 996; Jan. 14, 1983, Pub. L. 97–468, § 104, 96 Stat. 2543; Oct. 31, 1988, Pub. L. 100–561, §§ 103, 303(b)(1), 102 Stat. 2807, 2816; Oct. 24, 1992, Pub. L. 102–508, §§ 110(a), 111, 106 Stat. 3295.
	49 App.:2004(a) (1st sentence words before ''that such State agency'').	Nov. 30, 1979, Pub. L. 96–129, § 205(a), 93 Stat. 1006; Oct. 31, 1988, Pub. L. 100–561, § 203, 102 Stat. 2810; Oct. 24, 1992, Pub. L. 102–508, §§ 209(a), 210, 106 Stat. 3304.
60105(b)	49 App.:1674(a) (1st sentence words after ''an annual certification'').	
	49 App.:2004(a) (1st sentence words after ''an annual certification'').	
60105(c)	49 App.:1674(a) (2d, 3d sentences).	
	49 App.:2004(a) (2d, last sentences).	
60105(d)	49 App.:1674(e).	Aug. 12, 1968, Pub. L. 90–481, § 5(e), 82 Stat. 724; Oct. 11, 1976, Pub. L. 94–477, § 5(c), 90 Stat. 2074; Nov. 30, 1979, Pub. L. 96–129, § 103(b)(2)(B), 93 Stat. 991.
	49 App.:2004(e).	Nov. 30, 1979, Pub. L. 96–129, § 205(c) (related to certification), (e), (f), 93 Stat. 1007, 1008.
60105(e)	49 App.:1674(c) (related to certification).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, § 5(c) (related to certification); added Nov. 30, 1979, Pub. L. 96–129, § 103(b)(2)(C), 93 Stat. 991.
	49 App.:2004(c) (related to certification).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60105(f)	49 App.:1674(a) (4th, last sentences). 49 App.:2004(f).	

In subsection (a), the words ''applicable to same'' are omitted as surplus. The words ''for the facilities and transportation that complies with subsections (b) and (c) of this section'' are added for clarity.

In subsections (b) and (c), the words ''to which the certification applies'' and ''to whom the certification applies'' are added because of the restatement.

In subsection (b)(2), the words ''Federal safety'' and ''pursuant to State law'' are omitted as surplus.

In subsection (b)(7), the words ''injunctive relief and civil penalties'' are substituted for ''injunctive and monetary sanctions'' for clarity and consistency.

In subsection (c)(1), before clause (A), the word ''annual'' is omitted as surplus. The words ''in such form as the Secretary may by regulation provide'' are omitted as surplus because of 49:322(a). In clause (B), the words ''or loss'' are added for consistency in the revised title and with other titles of the United States Code. In clause (C), the words ''a detail of'' are omitted as surplus.

In subsection (d), the words ''with respect'' and ''new or amended Federal'' are omitted as surplus.

In subsection (e), the words ''conduct whatever . . . may be necessary'' and ''fully'' are omitted as surplus. The words ''with the Secretary'' are substituted for ''in any monitoring of their programs'' for clarity.

In subsection (f), the words ''prescribed under this chapter'' are added for clarity. The word ''reasonable'' is omitted as surplus.

AMENDMENTS

1996—Pub. L. 104–304 substituted ''State pipeline safety program certifications'' for ''State certifications'' in section catchline.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 60104, 60106, 60107, 60108, 60118, 60121, 60124, 60125, 60126 of this title.

§ 60106. State pipeline safety agreements

(a) GENERAL AUTHORITY.—If the Secretary of Transportation does not receive a certification under section 60105 of this title, the Secretary may make an agreement with a State authority (including a municipality if the agreement applies to intrastate gas pipeline transportation) authorizing it to take necessary action. Each agreement shall—

(1) establish an adequate program for record maintenance, reporting, and inspection designed to assist compliance with applicable safety standards prescribed under this chapter; and

(2) prescribe procedures for approval of plans of inspection and maintenance substantially the same as required under section 60108 (a) and (b) of this title.

(b) NOTIFICATION.—Each agreement shall require the State authority to notify the Secretary promptly of a violation or probable violation of an applicable safety standard discovered as a result of action taken in carrying out an agreement under this section.

(c) MONITORING.—The Secretary may monitor a safety program established under this section to ensure that the program complies with the agreement. A State authority shall cooperate with the Secretary under this subsection.

(d) ENDING AGREEMENTS.—The Secretary may end an agreement made under this section when the Secretary finds that the State authority has not complied with any provision of the agreement. The Secretary shall give the authority notice and an opportunity for a hearing before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1310; Pub. L. 104–304, § 20(b), Oct. 12, 1996, 110 Stat. 3804.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60106(a)	49 App.:1674(b) (1st sentence).	Aug. 12, 1968, Pub. L. 90–481, § 5(b), 82 Stat. 723; Oct. 11, 1976, Pub. L. 94–477, § 5(b), 90 Stat. 2074; Nov. 30, 1979, Pub. L. 96–129, §§ 103(b)(1), 109(h)(2), 93 Stat. 991, 996.
	49 App.:2004(b) (1st sentence).	Nov. 30, 1979, Pub. L. 96–129, § 205(b), (c) (related to agreement), (g), 93 Stat. 1007, 1008.
60106(b)	49 App.:1674(b) (last sentence). 49 App.:2004(b) (last sentence).	
60106(c)	49 App.:1674(c) (related to agreement).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, § 5(c) (related to agreement); added Nov. 30, 1979, Pub. L. 96–129, § 103(b)(2)(C), 93 Stat. 991.
	49 App.:2004(c) (related to agreement).	
60106(d)	49 App.:1674(f).	Aug. 12, 1968, Pub. L. 90–481, § 5(f), 82 Stat. 724; Nov. 30, 1979, Pub. L. 96–129, § 103(b)(2)(B), 93 Stat. 991.
	49 App.:2004(g).	

In subsection (a), before clause (1), the word ''annual'' is omitted as surplus. The words ''to take necessary action'' are substituted for ''to assume responsibility for, and carry out'' for clarity. The words ''on behalf of the Secretary'' are omitted as surplus. In clause (1), the words ''applicable . . . prescribed under this chapter'' are added for clarity. The word ''Federal'' is omitted as surplus. In clause (2), the word ''prescribe'' is substituted for ''establish'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words ''action taken in carrying out an agreement'' are substituted for ''its program'' for clarity.

In subsection (c), the words ''conduct whatever . . . may be necessary'' and ''fully'' are omitted as surplus. The words ''with the Secretary'' are substituted for ''in any monitoring of their programs'' for clarity.

AMENDMENTS

1996—Pub. L. 104–304 substituted ''State pipeline safety agreements'' for ''State agreements'' in section catchline.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 60107, 60108, 60118, 60124 of this title.

§ 60107. State pipeline safety grants

(a) GENERAL AUTHORITY.—If a State authority files an application not later than September 30 of a calendar year, the Secretary of Transportation shall pay not more than 50 percent of the cost of the personnel, equipment, and activities the authority reasonably requires during the next calendar year—

(1) to carry out a safety program under a certification under section 60105 of this title or

an agreement under section 60106 of this title; or

(2) to act as an agent of the Secretary on interstate gas pipeline facilities or interstate hazardous liquid pipeline facilities.

(b) PAYMENTS.—After notifying and consulting with a State authority, the Secretary may withhold any part of a payment when the Secretary decides that the authority is not carrying out satisfactorily a safety program or not acting satisfactorily as an agent. The Secretary may pay an authority under this section only when the authority ensures the Secretary that it will provide the remaining costs of a safety program and that the total State amount spent for a safety program (excluding grants of the United States Government) will at least equal the average amount spent—

(1) for a gas safety program, for the fiscal years that ended June 30, 1967, and June 30, 1968; and

(2) for a hazardous liquid safety program, for the fiscal years that ended September 30, 1978, and September 30, 1979.

(c) APPORTIONMENT AND METHOD OF PAYMENT.—The Secretary shall apportion the amount appropriated to carry out this section among the States. A payment may be made under this section in installments, in advance, or on a reimbursable basis.

(d) ADDITIONAL AUTHORITY AND CONSIDERATIONS.—(1) The Secretary may prescribe—

(A) the form of, and way of filing, an application under this section;

(B) reporting and fiscal procedures the Secretary considers necessary to ensure the proper accounting of money of the Government; and

(C) qualifications for a State to meet to receive a payment under this section, including qualifications for State employees who perform inspection activities under section 60105 or 60106 of this title.

(2) The qualifications prescribed under paragraph (1)(C) of this subsection may—

(A) consider the experience and training of the employee;

(B) order training or other requirements; and

(C) provide for approval of qualifications on a conditional basis until specified requirements are met.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1311; Pub. L. 104–304, § 20(c), Oct. 12, 1996, 110 Stat. 3804.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60107(a)	49 App.:1674(d)(1) (1st sentence).	Aug. 12, 1968, Pub. L. 90–481, § 5(d)(1), (3), (4), 82 Stat. 724; Aug. 22, 1972, Pub. L. 92–401, § 2, 86 Stat. 616; Aug. 30, 1974, Pub. L. 93–403, § 2, 88 Stat. 802; Nov. 30, 1979, Pub. L. 96–129, § 103(b)(2)(B), 93 Stat. 991.
	49 App.:2004(d)(1) (1st sentence).	Nov. 30, 1979, Pub. L. 96–129, § 205(d)(1), (3), (4), 93 Stat. 1008.
60107(b)	49 App.:1674(d)(1) (2d, last sentences).	
	49 App.:2004(d)(1) (2d, last sentences).	
60107(c)	49 App.:1674(d)(2).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, § 5(d)(2); added Aug. 30, 1974, Pub. L. 93–403, § 2, 88 Stat. 802; Nov. 30, 1979, Pub. L. 96–129, §§ 103(b)(2)(B), 109(h)(3), 93 Stat. 991, 996; Apr. 7, 1986, Pub. L. 99–272, § 7002(b)(1), 100 Stat. 139.
	49 App.:1674(d)(3).	
	49 App.:2004(d)(2).	Nov. 30, 1979, Pub. L. 96–129, § 205(d)(2), 93 Stat. 1008; Apr. 7, 1986, Pub. L. 99–272, § 7002(b)(2), 100 Stat. 139.
	49 App.:2004(d)(3).	
60107(d)(1)(A), (B).	49 App.:1674(d)(4).	
	49 App.:2004(d)(4).	
60107(d)(1)(C), (2).	49 App.:1674(d)(5).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, § 5(d)(5); added Oct. 31, 1988, Pub. L. 100–561, § 104, 102 Stat. 2807.
	49 App. 2004(d)(5).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, § 205(d)(5); added Oct. 31, 1988, Pub. L. 100–561, § 204, 102 Stat. 2811.

In subsection (a), before clause (1), the words ''Except as otherwise provided in this section'' and ''out of funds appropriated or otherwise made available'' are omitted as surplus.

In subsection (b), before clause (1), the word ''payment'' is substituted for ''funds'' for clarity. The words ''the total State amount spent'' are substituted for ''the aggregate expenditures of funds for the State'', and the words ''at least equal the average amount spent'' are substituted for ''be maintained at a level which does not fall below the average level of such expenditures'', to eliminate unnecessary words. In clause (1), the words ''that ended June 30, 1967, and June 30, 1968'' are substituted for ''last two . . . preceding August 12, 1968'' for clarity. In clause (2), the words ''that ended September 30, 1978, and September 30, 1979'' are substituted for ''last two . . . preceding November 30, 1979'' for clarity.

In subsection (c), the words ''the Federal grants-in-aid provisions of'', ''for payments to aid in the conduct of pipeline safety programs in accordance with paragraph (1) of this subsection'', and ''with necessary adjustments on account of overpayments and underpayments'' are omitted as surplus.

In subsection (d)(1), before clause (A), the word ''prescribe'' is substituted for ''by regulation, provide for'' and ''establish by regulation'' for consistency in the revised title and with other titles of the United States Code. In clause (C), the words ''to receive a payment under this section'' are substituted for ''in order to participate in the pipeline safety grant program under this subsection'', and the words ''under section 60105 or 60106 of this title'' are substituted for ''pursuant to either an annual certification by a State agency or an agreement relating to inspection between a State agency and the Secretary'', to eliminate unnecessary words.

In subsection (d)(2), before clause (A), the words ''qualifications prescribed'' are substituted for ''regulations'' for clarity and consistency.

AMENDMENTS

1996—Pub. L. 104–304 substituted ''State pipeline safety grants'' for ''State grants'' in section catchline.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 60105, 60125 of this title.

§ 60108. Inspection and maintenance

(a) PLANS.—(1) Each person owning or operating an intrastate gas pipeline facility or hazard-

ous liquid pipeline facility shall carry out a current written plan (including any changes) for inspection and maintenance of each facility used in the transportation and owned or operated by the person. A copy of the plan shall be kept at any office of the person the Secretary of Transportation considers appropriate. The Secretary also may require a person owning or operating a pipeline facility subject to this chapter to file a plan for inspection and maintenance for approval.

(2) If the Secretary or a State authority responsible for enforcing standards prescribed under this chapter decides that a plan required under paragraph (1) of this subsection is inadequate for safe operation, the Secretary or authority shall require the person to revise the plan. Revision may be required only after giving notice and an opportunity for a hearing. A plan required under paragraph (1) must be practicable and designed to meet the need for pipeline safety and must include terms designed to enhance the ability to discover safety-related conditions described in section 60102(h)(1) of this title. In deciding on the adequacy of a plan, the Secretary or authority shall consider—

(A) relevant available pipeline safety information;

(B) the appropriateness of the plan for the particular kind of pipeline transportation or facility;

(C) the reasonableness of the plan; and

(D) the extent to which the plan will contribute to public safety and the protection of the environment.

(3) A plan required under this subsection shall be made available to the Secretary or State authority on request under section 60117 of this title.

(b) INSPECTION AND TESTING.—(1) The Secretary shall inspect and require appropriate testing of a pipeline facility subject to this chapter that is not covered by a certification under section 60105 of this title or an agreement under section 60106 of this title. The Secretary shall decide on the frequency and type of inspection and testing under this subsection on a case-by-case basis after considering the following:

(A) the location of the pipeline facility.

(B) the type, size, age, manufacturer, method of construction, and condition of the pipeline facility.

(C) the nature and volume of material transported through the pipeline facility.

(D) the pressure at which that material is transported.

(E) climatic, geologic, and seismic characteristics (including soil characteristics) and conditions of the area in which the pipeline facility is located.

(F) existing and projected population and demographic characteristics of the area in which the pipeline facility is located.

(G) for a hazardous liquid pipeline facility, the proximity of the area in which the facility is located to an area that is unusually sensitive to environmental damage.

(H) the frequency of leaks.

(I) other factors the Secretary decides are relevant to the safety of pipeline facilities.

(2) To the extent and in amounts provided in advance in an appropriation law, the Secretary shall decide on the frequency of inspection under paragraph (1) of this subsection. The Secretary may reduce the frequency of an inspection of a master meter system.

(3) Testing under this subsection shall use the most appropriate technology practicable.

(c) PIPELINE FACILITIES OFFSHORE AND IN OTHER WATERS.—(1) In this subsection—

(A) ''abandoned'' means permanently removed from service.

(B) ''pipeline facility'' includes an underwater abandoned pipeline facility.

(C) if a pipeline facility has no operator, the most recent operator of the facility is deemed to be the operator of the facility.

(2)(A) Not later than May 16, 1993, on the basis of experience with the inspections under section 3(h)(1)(A) of the Natural Gas Pipeline Safety Act of 1968 or section 203(*l*)(1)(A) of the Hazardous Liquid Pipeline Safety Act of 1979, as appropriate, and any other information available to the Secretary, the Secretary shall establish a mandatory, systematic, and, where appropriate, periodic inspection program of—

(i) all offshore pipeline facilities; and

(ii) any other pipeline facility crossing under, over, or through waters where a substantial likelihood of commercial navigation exists, if the Secretary decides that the location of the facility in those waters could pose a hazard to navigation or public safety.

(B) In prescribing standards to carry out subparagraph (A) of this paragraph—

(i) the Secretary shall identify what is a hazard to navigation with respect to an underwater abandoned pipeline facility; and

(ii) for an underwater pipeline facility abandoned after October 24, 1992, the Secretary shall include requirements that will lessen the potential that the facility will pose a hazard to navigation and shall consider the relationship between water depth and navigational safety and factors relevant to the local marine environment.

(3)(A) The Secretary shall establish by regulation a program requiring an operator of a pipeline facility described in paragraph (2) of this subsection to report a potential or existing navigational hazard involving that pipeline facility to the Secretary through the appropriate Coast Guard office.

(B) The operator of a pipeline facility described in paragraph (2) of this subsection that discovers any part of the pipeline facility that is a hazard to navigation shall mark the location of the hazardous part with a Coast-Guard-approved marine buoy or marker and immediately shall notify the Secretary as provided by the Secretary under subparagraph (A) of this paragraph. A marine buoy or marker used under this subparagraph is deemed a pipeline sign or right-of-way marker under section 60123(c) of this title.

(4)(A) The Secretary shall establish a standard that each pipeline facility described in paragraph (2) of this subsection that is a hazard to navigation is buried not later than 6 months after the date the condition of the facility is reported to the Secretary. The Secretary may extend that 6-month period for a reasonable period to ensure compliance with this paragraph.

(B) In prescribing standards for subparagraph (A) of this paragraph for an underwater pipeline facility abandoned after October 24, 1992, the Secretary shall include requirements that will lessen the potential that the facility will pose a hazard to navigation and shall consider the relationship between water depth and navigational safety and factors relevant to the local marine environment.

(5)(A) Not later than October 24, 1994, the Secretary shall establish standards on what is an exposed offshore pipeline facility and what is a hazard to navigation under this subsection.

(B) Not later than 6 months after the Secretary establishes standards under subparagraph (A) of this paragraph, or October 24, 1995, whichever occurs first, the operator of each offshore pipeline facility not described in section 3(h)(1)(A) of the Natural Gas Pipeline Safety Act of 1968 or section 203(*l*)(1)(A) of the Hazardous Liquid Pipeline Safety Act of 1979, as appropriate, shall inspect the facility and report to the Secretary on any part of the facility that is exposed or is a hazard to navigation. This subparagraph applies only to a facility that is between the high water mark and the point at which the subsurface is under 15 feet of water, as measured from mean low water. An inspection that occurred after October 3, 1989, may be used for compliance with this subparagraph if the inspection conforms to the requirements of this subparagraph.

(C) The Secretary may extend the time period specified in subparagraph (B) of this paragraph for not more than 6 months if the operator of a facility satisfies the Secretary that the operator has made a good faith effort, with reasonable diligence, but has been unable to comply by the end of that period.

(6)(A) The operator of a pipeline facility abandoned after October 24, 1992, shall report the abandonment to the Secretary in a way that specifies whether the facility has been abandoned properly according to applicable United States Government and State requirements.

(B) Not later than October 24, 1995, the operator of a pipeline facility abandoned before October 24, 1992, shall report to the Secretary reasonably available information related to the facility, including information that a third party possesses. The information shall include the location, size, date, and method of abandonment, whether the facility has been abandoned properly under applicable law, and other relevant information the Secretary may require. Not later than April 24, 1994, the Secretary shall specify how the information shall be reported. The Secretary shall ensure that the Government maintains the information in a way accessible to appropriate Government agencies and State authorities.

(C) The Secretary shall request that a State authority having information on a collision between a vessel and an underwater pipeline facility report the information to the Secretary in a timely way and make a reasonable effort to specify the location, date, and severity of the collision. Chapter 35 of title 44 does not apply to this subparagraph.

(7) The Secretary may not exempt from this chapter an offshore hazardous liquid pipeline facility only because the pipeline facility transfers hazardous liquid in an underwater pipeline between a vessel and an onshore facility.

(d) REPLACING CAST IRON GAS PIPELINES.—(1) The Secretary shall publish a notice on the availability of industry guidelines, developed by the Gas Piping Technology Committee, for replacing cast iron pipelines. Not later than 2 years after the guidelines become available, the Secretary shall conduct a survey of gas pipeline operators with cast iron pipe in their systems to establish—

(A) the extent to which each operator has adopted a plan for the safe management and replacement of cast iron;

(B) the elements of the plan, including the anticipated rate of replacement; and

(C) the progress that has been made.

(2) Chapter 35 of title 44 does not apply to the conduct of the survey.

(3) This subsection does not prevent the Secretary from developing Government guidelines or standards for cast iron gas pipelines as the Secretary considers appropriate.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1312; Pub. L. 104–304, §§ 6, 20(h), Oct. 12, 1996, 110 Stat. 3800, 3805.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60108(a)(1) ..	49 App.:1680(a) (1st, 2d sentences).	Aug. 12, 1968, Pub. L. 90–481, § 13(a), 82 Stat. 726; Oct. 11, 1976, Pub. L. 94–477, § 6, 90 Stat. 2075; Nov. 30, 1979, Pub. L. 96–129, §§ 104(b), 105(a), 93 Stat. 992, 994; Oct. 22, 1986, Pub. L. 99–516, § 3(a)(2), 100 Stat. 2966; Oct. 31, 1988, Pub. L. 100–561, § 108(a)(1), 102 Stat. 2808; Oct. 24, 1992, Pub. L. 102–508, § 102(c), 106 Stat. 3291.
	49 App.:2009(a) (1st, 2d sentences).	Nov. 30, 1979, Pub. L. 96–129, § 210(a), 93 Stat. 1011; Oct. 22, 1986, Pub. L. 99–516, § 3(b)(2), 100 Stat. 2966; Oct. 31, 1988, Pub. L. 100–561, § 207(c), 102 Stat. 2812.
60108(a)(2) ..	49 App.:1680(a) (3d–5th, last sentences). 49 App.:2009(a) (3d sentence 1st–18th words, last sentence).	
	49 App.:2009(b).	Nov. 30, 1979, Pub. L. 96–129, § 210(b), 93 Stat. 1012; Oct. 24, 1992, Pub. L. 102–508, § 202(c)(1), 106 Stat. 3301.
60108(a)(3) ..	49 App.:1680(a) (6th sentence). 49 App.:2009(a) (3d sentence 19th–last words).	
60108(b)(1) ..	49 App.:1680(b)(1) (1st sentence), (2).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, § 13(b); added Oct. 31, 1988, Pub. L. 100–561, § 108(a)(2), 102 Stat. 2808.
	49 App.:2009(d)(1) (1st sentence), (2).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, § 210(d); added Oct. 31, 1988, Pub. L. 100–561, § 207(a), 102 Stat. 2811; Oct. 24, 1992, Pub. L. 102–508, § 202(c)(2) (related to § 210(d)(2)(D)), 106 Stat. 3301.
60108(b)(2) ..	49 App.:1680(b)(1) (2d, 3d sentences). 49 App.:2009(d)(1) (2d, 3d sentences).	
60108(b)(3) ..	49 App.:1680(b)(1) (last sentence). 49 App.:2009(d)(1) (last sentence).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60108(c)(1) ..	49 App.:1672(h)(6)(A), (D).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(h)(6); added Oct. 24, 1992, Pub. L. 102–508, §117, 106 Stat. 3298.
	49 App.:2002(*l*)(7)(A), (D).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(*l*)(7); added Oct. 24, 1992, Pub. L. 102–508, §216, 106 Stat. 3306.
60108(c)(2)(A).	49 App.:1672(h)(3).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(h)(1)–(4); added Nov. 16, 1990, Pub. L. 101–599, §1(a), 104 Stat. 3038; Oct. 24, 1992, Pub. L. 102–508, §108(1)–(4), 106 Stat. 3293.
	49 App.:2002(*l*)(3).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(*l*)(1)–(4); added Nov. 16, 1990, Pub. L. 101–599, §1(b), 104 Stat. 3039; Oct. 24, 1992, Pub. L. 102–508, §207(1)–(4), 106 Stat. 3302.
60108(c)(2)(B).	49 App.:1672(h)(6)(B)(i), (ii) (related to paragraph (3)).	
	49 App.:2002(*l*)(7)(B)(i), (ii) (related to paragraph (3)).	
60108(c)(3) ..	49 App.:1672(h)(1), (2).	
	49 App.:2002(*l*)(1), (2).	
60108(c)(4)(A).	49 App.:1672(h)(4).	
	49 App.:2002(*l*)(4).	
60108(c)(4)(B).	49 App.:1672(h)(6)(B)(ii) (related to paragraph (4)).	
	49 App.:2002(*l*)(7)(B)(ii) (related to paragraph (4)).	
60108(c)(5) ..	49 App.:1672(h)(5).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(h)(5); added Oct. 24, 1992, Pub. L. 102–508, §108(5), 106 Stat. 3294.
	49 App.:2002(*l*)(6).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §203(*l*)(5), (6); added Oct. 24, 1992, Pub. L. 102–508, §207(5), 106 Stat. 3302.
60108(c)(6) ..	49 App.:1672(h)(6)(C).	
	49 App.:2002(*l*)(7)(C).	
60108(c)(7) ..	49 App.:2002(*l*)(5).	
60108(d)	49 App.:1680(c).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §13(c); added Oct. 24, 1992, Pub. L. 102–508, §107, 106 Stat. 3293.

In subsection (a)(1), the word ''prepare'' is omitted as surplus. The words ''or offices'' are omitted because of 1:1. The words ''in accordance with regulations prescribed by the Secretary or appropriate State agency'' in 49 App.:1680(a) (1st sentence), ''in accordance with regulations prescribed by the Secretary or, where a certification or agreement pursuant to section 2004 of this Appendix is in effect, by the appropriate State agency'' in 49 App.:2009(a) (1st sentence), and ''by regulation'' are omitted as surplus because of 49:322(a) and sections 60102–60105 of the revised title.

In subsection (a)(2), before clause (A), the words ''the Secretary or'' are added for clarity. The words ''at any time'' in 49 App.:1680(a) (3d sentence) are omitted as surplus.

In subsection (a)(3), the word ''appropriate'' is omitted as surplus.

In subsection (b)(1), before clause (A), the words ''to ensure the safety of such pipeline facilities'' and ''factors'' are omitted as surplus. In clause (G), the words ''if any'' are omitted as surplus.

In subsection (b)(2), the text of 49 App.:1680(b)(1) (3d sentence) and 2009(d)(1) (3d sentence) is omitted as obsolete.

In subsection (c)(1)(B), the words ''except with respect to the initial inspection required under paragraph (1)'' are omitted as obsolete.

In subsection (c)(1)(C), the word ''current'' is omitted as surplus.

In subsection (c)(2)(B), before clause (i), the words ''to carry out'' are substituted for ''under'' because the Secretary does not prescribe regulations under 49 App.:1672(h)(3) or 2002(*l*)(3).

In subsection (c)(3), the text of 49 App.:1672(h)(1) and 2002(*l*)(1) is omitted as executed.

In subsection (c)(4)(A), the text of 49 App.:1672(h)(4)(A) and 2002(*l*)(4)(A) is omitted as obsolete.

In subsection (c)(5)(A), the words ''for the purposes of this paragraph'' are omitted as surplus.

In subsection (c)(5)(C), the words ''an additional period of'' and ''and care'' are omitted as surplus.

In subsection (c)(6)(C), the words ''relating to coordination of Federal information policies'' are omitted as surplus.

In subsection (c)(7), the words ''regulation under'' are omitted as surplus. The word ''because'' is substituted for ''on the basis of the fact that'' to eliminate unnecessary words.

In subsection (d)(2), the words ''(relating to coordination of Federal information policy)'' are omitted as surplus.

REFERENCES IN TEXT

Section 3(h)(1)(A) of the Natural Gas Pipeline Safety Act of 1968, referred to in subsec. (c)(2)(A), (5)(B), is section 3(h)(1)(A) of Pub. L. 90–481, which was classified to section 1672(h)(1)(A) of former Title 49, Transportation, prior to repeal by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379. For further details, see Historical and Revision Notes above.

Section 203(*l*)(1)(A) of the Hazardous Liquid Pipeline Safety Act of 1979, referred to in subsec. (c)(2)(A), (5)(B), is section 203(*l*)(1)(A) of Pub. L. 96–129, which was classified to section 2002(*l*)(1)(A) of former Title 49, Transportation, prior to repeal by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379. For further details, see Historical and Revision Notes above.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–304, §6(1), struck out ''transporting gas or hazardous liquid or'' after ''Each person'' and ''a person''.

Subsec. (b)(2). Pub. L. 104–304, §6(2), struck out after first sentence ''However, an inspection must occur at least once every 2 years.''

Subsec. (c). Pub. L. 104–304, §6(3), substituted ''OTHER WATERS'' for ''NAVIGABLE WATERS'' in heading.

Subsec. (c)(2)(A)(ii). Pub. L. 104–304, §6(4), added cl. (ii) and struck out former cl. (ii) which read as follows: ''any other pipeline facility crossing under, over, or through navigable waters (as defined by the Secretary) if the Secretary decides that the location of the facility in those navigable waters could pose a hazard to navigation or public safety.''

Subsec. (c)(2)(B). Pub. L. 104–304, §20(h)(1), substituted ''standards'' for ''regulations'' in introductory provisions.

Subsec. (c)(4)(A). Pub. L. 104–304, §20(h)(2), substituted ''establish a standard'' for ''require by regulation''.

Subsecs. (c)(4)(B), (d)(3). Pub. L. 104–304, §20(h)(1), substituted ''standards'' for ''regulations''.

STUDY OF UNDERWATER ABANDONED PIPELINE FACILITIES

Pub. L. 102–508, title III, §307, Oct. 24, 1992, 106 Stat. 3309, directed Secretary of Transportation, in consultation with State and other Federal agencies having authority over underwater natural gas and hazardous liquid pipeline facilities and with pipeline owners and operators, fishing and maritime industries, and other affected groups, to submit to Congress, not later than 3 years after Oct. 24, 1992, report and recommendations on abandonment of such pipeline facilities, including analysis of problems caused by such facilities, alternative methods to abandonment, as well as navigational, safety, economic, and environmental impacts

associated with abandonment, and further authorized Secretary to require, based on findings of such study, additional appropriate actions to prevent hazards to navigation in connection with such facilities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 60102, 60104, 60105, 60106, 60118 of this title.

§ 60109. High-density population areas and environmentally sensitive areas

(a) IDENTIFICATION REQUIREMENTS.—Not later than October 24, 1994, the Secretary of Transportation shall prescribe standards that—

(1) establish criteria for identifying—

(A) by operators of gas pipeline facilities, each gas pipeline facility (except a natural gas distribution line) located in a high-density population area; and

(B) by operators of hazardous liquid pipeline facilities and gathering lines—

(i) each hazardous liquid pipeline facility, whether otherwise subject to this chapter, that crosses waters where a substantial likelihood of commercial navigation exists or that is located in an area described in the criteria as a high-density population area; and

(ii) each hazardous liquid pipeline facility and gathering line, whether otherwise subject to this chapter, located in an area that the Secretary, in consultation with the Administrator of the Environmental Protection Agency, describes as unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident; and

(2) provide that the identification be carried out through the inventory required under section 60102(e) of this title.

(b) AREAS TO BE INCLUDED AS UNUSUALLY SENSITIVE.—When describing areas that are unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident, the Secretary shall consider areas where a pipeline rupture would likely cause permanent or long-term environmental damage, including—

(1) locations near pipeline rights-of-way that are critical to drinking water, including intake locations for community water systems and critical sole source aquifer protection areas; and

(2) locations near pipeline rights-of-way that have been identified as critical wetlands, riverine or estuarine systems, national parks, wilderness areas, wildlife preservation areas or refuges, wild and scenic rivers, or critical habitat areas for threatened and endangered species.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1315; Pub. L. 103–429, § 6(75), Oct. 31, 1994, 108 Stat. 4388; Pub. L. 104–304, §§ 7, 20(i), Oct. 12, 1996, 110 Stat. 3800, 3805.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60109(a)(1)(A).	49 App.:1672(i)(1) (1st sentence), (2).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, § 3(i); added Oct. 24, 1992, Pub. L. 102–508, § 102(a)(2), 106 Stat. 3291.
60109(a)(1)(B).	49 App.:2002(m)(1) (1st sentence).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, § 203(m); added Oct. 24, 1992, Pub. L. 102–508, § 202(a)(2), 106 Stat. 3300.
60109(a)(2) ..	49 App.:1672(i)(1) (last sentence). 49 App.:2002(m)(1) (2d sentence).	
60109(b)	49 App.:2002(m)(1) (last sentence).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

In subsection (a)(1)(B)(i) and (ii), the words ''regulation under'' and ''or not'' are omitted as surplus.

PUB. L. 103–429

This amends 49:60109(a)(2) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1315).

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–304, § 20(i), substituted ''standards'' for ''regulations'' in introductory provisions.

Subsec. (a)(1)(B)(i). Pub. L. 104–304, § 7(a), substituted ''waters where a substantial likelihood of commercial navigation exists'' for ''a navigable waterway (as the Secretary defines by regulation)''.

Subsec. (b). Pub. L. 104–304, § 7(b), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''When describing an area that is unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident, the Secretary shall consider including—

''(1) earthquake zones and areas subject to landslides and other substantial ground movements;

''(2) areas of likely ground water contamination if a hazardous liquid pipeline facility ruptures;

''(3) freshwater lakes, rivers, and waterways; and

''(4) river deltas and other areas subject to soil erosion or subsidence from flooding or other water action where a hazardous liquid pipeline facility is likely to become exposed or undermined.''

1994—Subsec. (a)(2). Pub. L. 103–429 substituted ''section 60102(e)'' for ''section 60102(c)''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 60102 of this title.

§ 60110. Excess flow valves

(a) APPLICATION.—This section applies only to—

(1) a natural gas distribution system installed after the effective date of regulations prescribed under this section; and

(2) any other natural gas distribution system when repair to the system requires replacing a part to accommodate installing excess flow valves.

(b) INSTALLATION REQUIREMENTS AND CONSIDERATIONS.—Not later than April 24, 1994, the Secretary of Transportation shall prescribe standards on the circumstances, if any, under which an operator of a natural gas distribution system must install excess flow valves in the system. The Secretary shall consider—

(1) the system design pressure;

(2) the system operating pressure;

(3) the types of customers to which the distribution system supplies gas, including hospitals, schools, and commercial enterprises;

(4) the technical feasibility and cost of installing, operating, and maintaining the valve;

(5) the public safety benefits of installing the valve;

(6) the location of customer meters; and

(7) other factors the Secretary considers relevant.

(c) NOTIFICATION OF AVAILABILITY.—(1) Not later than October 24, 1994, the Secretary shall prescribe standards requiring an operator of a natural gas distribution system to notify in writing its customers having lines in which excess flow valves are not required by law but can be installed according to the standards prescribed under subsection (e) of this section, of—

(A) the availability of excess flow valves for installation in the system;

(B) safety benefits to be derived from installation; and

(C) costs associated with installation, maintenance, and replacement.

(2) The standards shall provide that, except when installation is required under subsection (b) of this section, excess flow valves shall be installed at the request of the customer if the customer will pay all costs associated with installation.

(d) REPORT.—If the Secretary decides under subsection (b) of this section that there are no circumstances under which an operator must install excess flow valves, the Secretary shall submit to Congress a report on the reasons for the decision not later than 30 days after the decision is made.

(e) PERFORMANCE STANDARDS.—Not later than April 24, 1994, the Secretary shall develop standards for the performance of excess flow valves used to protect lines in a natural gas distribution system. The Secretary may adopt industry accepted performance standards in order to comply with the requirement under the preceding sentence. The standards shall be incorporated into regulations the Secretary prescribes under this section. All excess flow valves shall be installed according to the standards.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1316; Pub. L. 104–304, §§8, 20(j), Oct. 12, 1996, 110 Stat. 3800, 3805.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60110(a)	49 App.:1672(j)(5).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(j); added Oct. 24, 1992, Pub. L. 102–508, §104, 106 Stat. 3291.
60110(b)	49 App.:1672(j)(1).	
60110(c)	49 App.:1672(j)(2).	
60110(d)	49 App.:1672(j)(3).	
60110(e)	49 App.:1672(j)(4).	

In subsection (a)(2), the words ''in a manner'' are omitted as surplus.

In subsection (b), before clause (1), the words ''on when'' are substituted for ''prescribing the circumstances, if any, under which'' to eliminate unnecessary words.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–304, §20(j), substituted ''standards'' for ''regulations'' in introductory provisions.

Pub. L. 104–304, §8(1), which directed the insertion of '', if any,'' after ''circumstances'' in the first sentence of subsection (b)(1), was executed to the introductory provisions of subsec. (b) to reflect the probable intent of Congress.

Subsec. (b)(4). Pub. L. 104–304, §8(2), inserted '', operating, and maintaining'' after ''cost of installing''.

Subsec. (c)(1). Pub. L. 104–304, §20(j), substituted ''standards'' for ''regulations'' after ''prescribe'' in introductory provisions.

Subsec. (c)(1)(C). Pub. L. 104–304, §8(3), inserted '', maintenance, and replacement'' after ''installation''.

Subsec. (c)(2). Pub. L. 104–304, §20(j), substituted ''standards'' for ''regulations''.

Subsec. (e). Pub. L. 104–304, §8(4), inserted after first sentence ''The Secretary may adopt industry accepted performance standards in order to comply with the requirement under the preceding sentence.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 60102 of this title.

§ 60111. Financial responsibility for liquefied natural gas facilities

(a) NOTICE.—When the Secretary of Transportation believes that an operator of a liquefied natural gas facility does not have adequate financial responsibility for the facility, the Secretary may issue a notice to the operator about the inadequacy and the amount of financial responsibility the Secretary considers adequate.

(b) HEARINGS.—An operator receiving a notice under subsection (a) of this section may have a hearing on the record not later than 30 days after receiving the notice. The operator may show why the Secretary should not issue an order requiring the operator to demonstrate and maintain financial responsibility in at least the amount the Secretary considers adequate.

(c) ORDERS.—After an opportunity for a hearing on the record, the Secretary may issue the order if the Secretary decides it is justified in the public interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1317.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60111(a)	49 App.:1674b(b)(1), (c).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §7(b)(1)–(3), (c); added Nov. 30, 1979, Pub. L. 96–129, §153, 93 Stat. 1002.
60111(b)	49 App.:1674b(b)(2).	
60111(c)	49 App.:1674b(b)(3).	

In subsection (a), the words ''is not maintaining adequate insurance or otherwise'', the text of 49 App.:1674b(c), and the words ''and serve upon'' and ''a statement of'' are omitted as surplus.

In subsection (b), the words ''in accordance with section 554 of title 5'' are omitted for consistency in the revised title and because 5:554 applies to a hearing on the record unless otherwise stated. The words ''to be held'' and ''cause as to'' are omitted as surplus. The words ''the Secretary considers adequate'' are substituted for ''indicated in the notice under paragraph (1)'' for clarity and to eliminate unnecessary words.

Subsection (c) is substituted for 49 App.:1674b(b)(3) to eliminate unnecessary words.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 60119, 60122 of this title.

§ 60112. Pipeline facilities hazardous to life and property

(a) GENERAL AUTHORITY.—After notice and an opportunity for a hearing, the Secretary of Transportation may decide a pipeline facility is hazardous if the Secretary decides the facility is—

(1) hazardous to life, property, or the environment; or

(2) constructed or operated, or a component of the facility is constructed or operated, with equipment, material, or a technique the Secretary decides is hazardous to life, property, or the environment.

(b) CONSIDERATIONS.—In making a decision under subsection (a) of this section, the Secretary shall consider, if relevant—

(1) the characteristics of the pipe and other equipment used in the pipeline facility, including the age, manufacture, physical properties, and method of manufacturing, constructing, or assembling the equipment;

(2) the nature of the material the pipeline facility transports, the corrosive and deteriorative qualities of the material, the sequence in which the material are transported, and the pressure required for transporting the material;

(3) the aspects of the area in which the pipeline facility is located, including climatic and geologic conditions and soil characteristics;

(4) the proximity of the area in which the hazardous liquid pipeline facility is located to environmentally sensitive areas;

(5) the population density and population and growth patterns of the area in which the pipeline facility is located;

(6) any recommendation of the National Transportation Safety Board made under another law; and

(7) other factors the Secretary considers appropriate.

(c) OPPORTUNITY FOR STATE COMMENT.—The Secretary shall provide, to any appropriate official of a State in which a pipeline facility is located and about which a proceeding has begun under this section, notice and an opportunity to comment on an agreement the Secretary proposes to make to resolve the proceeding. State comment shall incorporate comments of affected local officials.

(d) CORRECTIVE ACTION ORDERS.—If the Secretary decides under subsection (a) of this section that a pipeline facility is hazardous, the Secretary shall order the operator of the facility to take necessary corrective action, including suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other appropriate action.

(e) WAIVER OF NOTICE AND HEARING IN EMERGENCY.—The Secretary may waive the requirements for notice and an opportunity for a hearing under this section and issue expeditiously an order under this section if the Secretary decides failure to issue the order expeditiously will result in likely serious harm to life, property, or the environment. An order under this subsection shall provide an opportunity for a hearing as soon as practicable after the order is issued.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1317; Pub. L. 103–429, § 6(76), Oct. 31, 1994, 108 Stat. 4388.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60112(a)	49 App.:1679b(b)(1) (1st sentence words before 3d comma), (2).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, § 12(b)(1)–(5); added Nov. 30, 1979, Pub. L. 96–129, § 104(b), 93 Stat. 993; Oct. 24, 1992, Pub. L. 102–508, § 101(b), 106 Stat. 3290.
	49 App.:2008(b)(1) (1st sentence words before 3d comma), (2).	Nov. 30, 1979, Pub. L. 96–129, § 209(b)(1)–(5), 93 Stat. 1010; Oct. 24, 1992, Pub. L. 102–508, § 201(b), 106 Stat. 3300.
60112(b)	49 App.:1679b(b)(3). 49 App.:2008(b)(3).	
60112(c)	49 App.:1679b(b)(6).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, § 12(b)(6); added Oct. 24, 1992, Pub. L. 102–508, § 113(a), 106 Stat. 3296.
	49 App.:2008(b)(6).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, § 209(b)(6); added Oct. 24, 1992, Pub. L. 102–508, § 213(a), 106 Stat. 3305.
60112(d)	49 App.:1679b(b)(1) (1st sentence words after 3d comma, last sentence). 49 App.:2008(b)(1) (1st sentence words after 3d comma, last sentence).	
60112(e)	49 App.:1679b(b)(4), (5). 49 App.:2008(b)(4), (5).	

In subsection (a), before clause (1), the word ''reasonable'' and the text of 49 App.:1679b(b)(1) (last sentence) and 2008(b)(1) (last sentence) are omitted as surplus. Clauses (1) and (2) are substituted for ''that any pipeline facility is hazardous to life or property'' and 49 App.:1679b(b)(2) and 2008(b)(2) to eliminate unnecessary words.

In subsection (b)(1), the words ''involved'' and ''(including its resistance to corrosion and deterioration)'' are omitted as surplus.

In subsection (b)(5), the words ''in connection with any investigation conducted by the Board'' are omitted as surplus.

In subsection (c), the words ''responsible for pipeline safety'' are omitted as surplus.

In subsection (e), the text of 49 App.:1679b(b)(4) and 2008(b)(4) is omitted because of 28:516 and 1331.

PUB. L. 103–429

This amends 49:60112(d) to clarify the restatement of 49 App.:1679b(b)(1) and 2008(b)(1) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1317).

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–429 inserted before period at end '', including suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other appropriate action''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 60122 of this title.

§ 60113. Customer-owned natural gas service lines

Not later than October 24, 1993, the Secretary of Transportation shall prescribe standards requiring an operator of a natural gas distribution pipeline that does not maintain customer-owned natural gas service lines up to building walls to advise its customers of—

(1) the requirements for maintaining those lines;

(2) any resources known to the operator that could assist customers in carrying out the maintenance;

(3) information the operator has on operating and maintaining its lines that could assist customers; and

(4) the potential hazards of not maintaining the lines.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1318; Pub. L. 104–304, §§ 9, 20(k), Oct. 12, 1996, 110 Stat. 3801, 3805.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60113(a)	49 App.:1685(b).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §18(b); added Oct. 24, 1992, Pub. L. 102–508, §115(a)(2), 106 Stat. 3296.
60113(b)	49 App.:1672(k).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §3(k); added Oct. 24, 1992, Pub. L. 102–508, §115(c), 106 Stat. 3297.

AMENDMENTS

1996—Pub. L. 104–304 struck out subsec. (a) designation and heading, substituted ''standards'' for ''regulations'', and struck out subsec. (b), which read as follows:

''(b) ACTIONS TO PROMOTE SAFETY.—Not later than one year after submitting the report required under section 115(b) of the Pipeline Safety Act of 1992 (Public Law 102–508, 106 Stat. 3296), the Secretary, considering the report and in cooperation and coordination with appropriate State and local authorities, shall take appropriate action to promote the adoption of measures to improve the safety of customer-owned natural gas service lines.''

MAINTENANCE OF CUSTOMER-OWNED SERVICE LINES

Pub. L. 102–508, title I, § 115(b), Oct. 24, 1992, 106 Stat. 3296, provided that:

''(1) DOT SAFETY REVIEW.—Within 18 months after the date of the enactment of this Act [Oct. 24, 1992], the Secretary of Transportation shall conduct a review of Department of Transportation and State rules, policies, procedures, and other measures with respect to the safety of customer-owned natural gas service lines, including the effectiveness of such rules, policies, procedures, and other measures. The Secretary of Transportation shall include in the review an evaluation of the extent to which lack of maintenance of customer-owned natural gas service lines raises safety concerns and shall make recommendations regarding maintenance of such lines, including the need for any legislative changes or regulatory action. In conducting the review and developing the recommendations, the Secretary of Transportation shall consider the following factors: State and local law, including law governing private property and rights, and including State pipeline safety regulation of distribution operators; the views of State and local regulatory authorities; the extent of operator compliance with the program for advising customers regarding maintenance of such lines required under section 18(b) of the Natural Gas Pipeline Safety Act of 1968 [see subsec. (a) of this section]; available accident information; the recommendations of the National Transportation Safety Board; costs; the civil liability implications of distribution operators taking responsibility for customer-owned service lines; and whether the service line maintenance information program required under such section 18(b) sufficiently addresses safety risks and concerns involving customer-owned service lines.

''(2) OPERATION AND MAINTENANCE RESPONSIBILITY.—Within 18 months after the date of the enactment of this Act [Oct. 24, 1992], the Secretary of Transportation shall conduct, with the participation of the operators of natural gas distribution facilities, a survey of owners of customer-owned service lines to determine the views of such owners regarding whether distribution companies should assume responsibility for the operation and maintenance of customer-owned service lines. In conducting the survey, the Secretary of Transportation shall ensure that such customers are aware of any potential safety benefits, any potential implementation issues (including any property rights or cost issues), the recommendations of the National Transportation Safety Board, and accidents that have occurred, related to customer-owned service lines.

''(3) APPLICABILITY.—Chapter 35 of title 44, United States Code (relating to coordination of Federal information policy) shall not apply to the conduct of the review or survey under this subsection.

''(4) REPORT.—Not later than 2 years after the date of the enactment of this Act [Oct. 24, 1992], the Secretary of Transportation shall transmit to Congress a report on the results of the review and survey conducted under this subsection, together with any recommendations (including legislative recommendations) regarding maintenance of customer-owned natural gas service lines.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 60102 of this title.

§ 60114. One-call notification systems

(a) MINIMUM REQUIREMENTS.—The Secretary of Transportation shall prescribe regulations providing minimum requirements for establishing and operating a one-call notification system for a State to adopt that will notify an operator of a pipeline facility of activity in the vicinity of the facility that could threaten the safety of the facility. The regulations shall include the following:

(1) a requirement that the system apply to all areas of the State containing underground pipeline facilities.

(2) a requirement that a person intending to engage in an activity the Secretary decides could cause physical damage to an underground facility must contact the appropriate system to establish if there are underground facilities present in the area of the intended activity.

(3) a requirement that all operators of underground pipeline facilities participate in an appropriate one-call notification system.

(4) qualifications for an operator of a facility, a private contractor, or a State or local authority to operate a system.

(5) procedures for advertisement and notice of the availability of a system.

(6) a requirement about the information to be provided by a person contacting the system under clause (2) of this subsection.

(7) a requirement for the response of the operator of the system and of the facility after they are contacted by an individual under this subsection.

(8) a requirement that each State decide whether the system will be toll free.

(9) a requirement for sanctions substantially the same as provided under sections 60120 and 60122 of this title.

(b) MARKING FACILITIES.—On notification by an operator of a damage prevention program or by a person planning to carry out demolition, excavation, tunneling, or construction in the vicinity of a pipeline facility, the operator of the facility shall mark accurately, in a reasonable and timely way, the location of the pipeline facilities in the vicinity of the demolition, excavation, tunneling, or construction.

(d)[1] RELATIONSHIP TO OTHER LAWS.—This section and regulations prescribed under this section do not affect the liability established under a law of the United States or a State for damage caused by an activity described in subsection (a)(2) of this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1318; Pub. L. 104–287, § 5(91), Oct. 11, 1996, 110 Stat. 3398; Pub. L. 104–304, § 20(d), Oct. 12, 1996, 110 Stat. 3804.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60114(a)	49 App.:1687(b), (e).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, § 20(a)–(e); added Oct. 31, 1988, Pub. L. 100–561, § 303(a), 102 Stat. 2814.
60114(b)	49 App.:1687(c).	
60114(c)	49 App.:1687(h).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, § 20(h); added Oct. 24, 1992, Pub. L. 102–508, § 304(a), 106 Stat. 3308.
60114(d)	49 App.:1687(a).	
60114(e)	49 App.:1687(d).	

In subsection (a), before clause (1), the words ''Not later than 18 months after October 31, 1988'' are omitted as obsolete. The words ''as described in subsection (a)'' are omitted as surplus. In clause (1), the words ''or systems'' are omitted because of 1:1. In clause (8), the words ''or not'' are omitted as surplus.

In subsection (b), the words ''all of the requirements established under'' are omitted as surplus.

In subsection (c), the words ''contractor, excavator, or other'' are omitted as surplus.

In subsection (d), before clause (1), the words ''When apportioning the amount appropriated to carry out'' are substituted for ''In making allocations under'' for consistency with section 60107 of the revised title. In clause (2), the words ''shall withhold part of a payment under section 60107 of this title'' are substituted for ''such State may not receive the full reimbursement under such sections to which it would otherwise be entitled'' for clarity and consistency.

PUB. L. 104–287

This amends 49:60114(a)(9) to clarify the restatement of 49 App.:1687(b) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1319), because the requirement for substantially the same sanctions was not intended to include criminal penalties.

AMENDMENTS

1996—Subsec. (a)(9). Pub. L. 104–287 and Pub. L. 104–304, § 20(d)(1), amended par. (9) identically, substituting ''60120 and 60122'' for ''60120, 60122, and 60123''.

Subsec. (b). Pub. L. 104–304, § 20(d)(2), (3), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows:

''(b) GRANTS.—The Secretary may make a grant to a State under this section to develop and establish a one-call notification system consistent with subsection (a) of this section.''

Subsec. (c). Pub. L. 104–304, § 20(d)(3), redesignated subsec. (c) as (b).

Subsecs. (d), (e). Pub. L. 104–304, § 20(d)(2), (3), redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows:

''(d) APPORTIONMENT.—When apportioning the amount appropriated to carry out section 60107 of this title among the States, the Secretary—

''(1) shall consider whether a State has adopted or is seeking adoption of a one-call notification system under this section; and

''(2) shall withhold part of a payment under section 60107 of this title when the Secretary decides a State has not adopted, or is not seeking adoption of, a one-call notification system.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 60105, 60122, 60123, 60125 of this title.

§ 60115. Technical safety standards committees

(a) ORGANIZATION.—The Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee are committees in the Department of Transportation. The committees referred to in the preceding sentence shall serve as peer review committees for carrying out this chapter. Peer reviews conducted by the committees shall be treated for purposes of all Federal laws relating to risk assessment and peer review (including laws that take effect after the date of the enactment of the Accountable Pipeline Safety and Partnership Act of 1996) as meeting any peer review requirements of such laws.

(b) COMPOSITION AND APPOINTMENT.—(1) The Technical Pipeline Safety Standards Committee is composed of 15 members appointed by the Secretary of Transportation after consulting with public and private agencies concerned with the technical aspect of transporting gas or operating a gas pipeline facility. Each member must be experienced in the safety regulation of transporting gas and of gas pipeline facilities or technically qualified, by training, experience, or knowledge in at least one field of engineering applicable to transporting gas or operating a gas pipeline facility, to evaluate gas pipeline safety standards or risk management principles.

(2) The Technical Hazardous Liquid Pipeline Safety Standards Committee is composed of 15 members appointed by the Secretary after consulting with public and private agencies concerned with the technical aspect of transporting hazardous liquid or operating a hazardous liquid

[1] So in original. Probably should be ''(c)''.

pipeline facility. Each member must be experienced in the safety regulation of transporting hazardous liquid and of hazardous liquid pipeline facilities or technically qualified, by training, experience, or knowledge in at least one field of engineering applicable to transporting hazardous liquid or operating a hazardous liquid pipeline facility, to evaluate hazardous liquid pipeline safety standards or risk management principles.

(3) The members of each committee are appointed as follows:

(A) 5 individuals selected from departments, agencies, and instrumentalities of the United States Government and of the States.

(B) 5 individuals selected from the natural gas or hazardous liquid industry, as appropriate, after consulting with industry representatives.

(C) 5 individuals selected from the general public.

(4)(A) Two of the individuals selected for each committee under paragraph (3)(A) of this subsection must be State commissioners. The Secretary shall consult with the national organization of State commissions before selecting those 2 individuals.

(B) At least 3 of the individuals selected for each committee under paragraph (3)(B) of this subsection must be currently in the active operation of natural gas pipelines or hazardous liquid pipeline facilities, as appropriate. At least 1 of the individuals selected for each committee under paragraph (3)(B) shall have education, background, or experience in risk assessment and cost-benefit analysis. The Secretary shall consult with the national organizations representing the owners and operators of pipeline facilities before selecting individuals under paragraph (3)(B).

(C) Two of the individuals selected for each committee under paragraph (3)(C) of this subsection must have education, background, or experience in environmental protection or public safety. At least 1 of the individuals selected for each committee under paragraph (3)(C) shall have education, background, or experience in risk assessment and cost-benefit analysis. At least one individual selected for each committee under paragraph (3)(C) may not have a financial interest in the pipeline, petroleum, or natural gas industries.

(c) COMMITTEE REPORTS ON PROPOSED STANDARDS.—(1) The Secretary shall give to—

(A) the Technical Pipeline Safety Standards Committee each standard proposed under this chapter for transporting gas and for gas pipeline facilities including the risk assessment information and other analyses supporting each proposed standard; and

(B) the Technical Hazardous Liquid Pipeline Safety Standards Committee each standard proposed under this chapter for transporting hazardous liquid and for hazardous liquid pipeline facilities including the risk assessment information and other analyses supporting each proposed standard.

(2) Not later than 90 days after receiving the proposed standard and supporting analyses, the appropriate committee shall prepare and submit to the Secretary a report on the technical feasibility, reasonableness, cost-effectiveness, and practicability of the proposed standard and include in the report recommended actions. The Secretary shall publish each report, including any recommended actions and minority views. The report if timely made is part of the proceeding for prescribing the standard. The Secretary is not bound by the conclusions of the committee. However, if the Secretary rejects the conclusions of the committee, the Secretary shall publish the reasons.

(3) The Secretary may prescribe a standard after the end of the 90-day period.

(d) PROPOSED COMMITTEE STANDARDS AND POLICY DEVELOPMENT RECOMMENDATIONS.—(1) The Technical Pipeline Safety Standards Committee may propose to the Secretary a safety standard for transporting gas and for gas pipeline facilities. The Technical Hazardous Liquid Pipeline Safety Standards Committee may propose to the Secretary a safety standard for transporting hazardous liquid and for hazardous liquid pipeline facilities.

(2) If requested by the Secretary, a committee shall make policy development recommendations to the Secretary.

(e) MEETINGS.—Each committee shall meet with the Secretary at least up to 4 times annually. Each committee proceeding shall be recorded. The record of the proceeding shall be available to the public.

(f) EXPENSES.—A member of a committee under this section is entitled to expenses under section 5703 of title 5. A payment under this subsection does not make a member an officer or employee of the Government. This subsection does not apply to members regularly employed by the Government.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1319; Pub. L. 104–88, title III, § 308(m), Dec. 29, 1995, 109 Stat. 948; Pub. L. 104–304, § 10, Oct. 12, 1996, 110 Stat. 3801.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60115(a)	49 App.:1673(a) (1st sentence).	Aug. 12, 1968, Pub. L. 90–481, § 4(a), 82 Stat. 722; Nov. 30, 1979, Pub. L. 96–129, § 102(a), 93 Stat. 991; Oct. 24, 1992, Pub. L. 102–508, § 105(1), 106 Stat. 3293.
	49 App.:2003(a) (1st sentence).	Nov. 30, 1979, Pub. L. 96–129, § 204(a), 93 Stat. 1005; Oct. 24, 1992, Pub. L. 102–508, § 204(1), 106 Stat. 3301.
60115(b)(1) ..	49 App.:1673(a) (last sentence words before colon).	
60115(b)(2) ..	49 App.:2003(a) (last sentence words before colon).	
60115(b)(3), (4).	49 App.:1671(7).	Aug. 12, 1968, Pub. L. 90–481, § 2(7), 82 Stat. 720; Nov. 30, 1979, Pub. L. 96–129, § 109(a), 93 Stat. 996.
	49 App.:1673(a) (last sentence words after colon).	
	49 App.:2001(10).	Nov. 30, 1979, Pub. L. 96–129, §§ 202(10), 204(c), 93 Stat. 1004, 1006.
	49 App.:2003(a) (last sentence words after colon).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60115(c)	49 App.:1673(b) (1st–5th sentences).	Aug. 12, 1968, Pub. L. 90–481, §4(b), 82 Stat. 722; Nov. 30, 1979, Pub. L. 96–129, §102(b), 93 Stat. 991; Jan. 14, 1983, Pub. L. 97–468, §101 (related to §4(b)), 96 Stat. 2543; Oct. 24, 1992, Pub. L. 102–508, §105(2), 106 Stat. 3293.
	49 App.:2003(b) (1st–5th sentences).	Nov. 30, 1979, Pub. L. 96–129, §204(b), 93 Stat. 1006; Jan. 14, 1983, Pub. L. 97–468, §101 (related to §204(b)), 96 Stat. 2543; Oct. 24, 1992, Pub. L. 102–508, §204(2), 106 Stat. 3302.
60115(d)	49 App.:1673(b) (6th sentence).	
	49 App.:2003(b) (6th sentence).	
60115(e)	49 App.:1673(b) (7th, last sentences).	
	49 App.:2003(b) (7th, last sentences).	
60115(f)	49 App.:1673(c).	Aug. 12, 1968, Pub. L. 90–481, §4(c), 82 Stat. 722; Nov. 30, 1979, Pub. L. 96–129, §102(c), 93 Stat. 991.
	49 App.:2003(c).	

In subsection (a), the words ''Not later than 12 months after November 30, 1979'' and ''and appoint the initial members of the Committee'' in 49 App.:2003(a) (1st sentence) are omitted as executed.

In subsection (b)(3)(A)–(C), the word ''individuals'' is substituted for ''members'' for consistency.

In subsection (b)(3)(A), the words ''departments, agencies, and instrumentalities of the United States Government and of the States'' are substituted for ''governmental agencies, including State and Federal Governments'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(3)(B), the words ''as appropriate'' are added because of the restatement.

In subsection (b)(4), the words ''representatives of'' are omitted as surplus. The words ''section 10344(f) of this title'' are substituted for ''subchapter III of chapter 103 of title 49'' for clarity.

In subsection (c)(1)(A) and (B), the words ''or any proposed amendment to a standard under this chapter, for its consideration'' are omitted as surplus.

In subsection (c)(1)(B), the words ''After the Committee has been established and its members appointed'' in 49 App.:2003(b) are omitted as executed.

In subsection (c)(2), the words ''or amendment'', ''by the Committee'', ''of the majority'', and ''for rejection thereof'' are omitted as surplus.

In subsection (c)(3), the words ''final . . . or a final amendment to a standard at any time'' are omitted as surplus. The words ''the end of the 90-day period'' are substituted for ''the 90th day after its submission to the Committee, whether or not the Committee has reported on such standard or amendment'' to eliminate unnecessary words.

In subsection (d), the words ''for his consideration'' are omitted as surplus.

In subsection (e), the words ''(or his designee)'' are omitted as surplus because of 49:322(b). The words ''at least'' are substituted for ''not less frequently than'' to eliminate unnecessary words. The word ''calendar'' is omitted as surplus.

In subsection (f), the words ''The Secretary may establish the pay'' are substituted for ''may be compensated at a rate to be fixed by the Secretary'' for consistency and to eliminate unnecessary words. The words ''of the Committee'' after ''Members'', ''actual'', and ''then currently'' are omitted as surplus. The reference to section 5376 of title 5 is substituted for the reference to section 5332 of title 5 because of section 529 of the Treasury, Postal Service and General Government Appropriations Act, 1991 (Public Law 101–509, 104 Stat. 1442). The words ''A member is entitled to expenses under section 5703 of title 5'' are substituted for 49 App.:1673(c) (2d sentence) and 2003(c) (2d sentence) to eliminate unnecessary words. The words ''for any purpose'' are omitted as surplus. The words ''This subsection does not apply to members regularly employed by the Government'' are substituted for ''other than Federal employees'' for clarity.

REFERENCES IN TEXT

The date of the enactment of the Accountable Pipeline Safety and Partnership Act of 1996, referred to in subsec. (a), is the date of enactment of Pub. L. 104–304, which was approved Oct. 12, 1996.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–304, §10(a), inserted at end ''The committees referred to in the preceding sentence shall serve as peer review committees for carrying out this chapter. Peer reviews conducted by the committees shall be treated for purposes of all Federal laws relating to risk assessment and peer review (including laws that take effect after the date of the enactment of the Accountable Pipeline Safety and Partnership Act of 1996) as meeting any peer review requirements of such laws.''

Subsec. (b)(1), (2). Pub. L. 104–304, §10(b)(1), (2), inserted before period at end ''or risk management principles''.

Subsec. (b)(3)(B). Pub. L. 104–304, §10(b)(3), substituted ''5'' for ''4''.

Subsec. (b)(3)(C). Pub. L. 104–304, §10(b)(4), substituted ''5'' for ''6''.

Subsec. (b)(4)(B). Pub. L. 104–304, §10(b)(5), inserted at end ''At least 1 of the individuals selected for each committee under paragraph (3)(B) shall have education, background, or experience in risk assessment and cost-benefit analysis. The Secretary shall consult with the national organizations representing the owners and operators of pipeline facilities before selecting individuals under paragraph (3)(B).''

Subsec. (b)(4)(C). Pub. L. 104–304, §10(b)(6), inserted after first sentence ''At least 1 of the individuals selected for each committee under paragraph (3)(C) shall have education, background, or experience in risk assessment and cost-benefit analysis.''

Subsec. (c)(1)(A). Pub. L. 104–304, §10(c)(1), inserted before semicolon ''including the risk assessment information and other analyses supporting each proposed standard''.

Subsec. (c)(1)(B). Pub. L. 104–304, §10(c)(2), inserted before period at end ''including the risk assessment information and other analyses supporting each proposed standard''.

Subsec. (c)(2). Pub. L. 104–304, §10(c)(3)–(6), inserted ''and supporting analyses'' after ''receiving the proposed standard'', ''and submit to the Secretary'' after ''prepare'', ''cost-effectiveness,'' after ''reasonableness,'', ''and include in the report recommended actions'' after ''practicability of the proposed standard'', and ''any recommended actions and'' after ''including''.

Subsec. (e). Pub. L. 104–304, §10(d), substituted ''up to 4 times'' for ''twice''.

Subsec. (f). Pub. L. 104–304, §10(e), substituted ''EXPENSES'' for ''PAY AND EXPENSES'' in heading, struck out ''The Secretary may establish the pay for each member of a committee for each day (including travel time) when performing duties of the committee. However, a member may not be paid more than the daily equivalent of the maximum annual rate of basic pay payable under section 5376 of title 5.'' after heading, and inserted ''of a committee under this section'' after ''A member''.

1995—Subsec. (b)(4)(A). Pub. L. 104–88 struck out ''(referred to in section 10344(f) of this title)'' after ''commissions''.

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.

§ 60116. Public education programs

Under regulations the Secretary of Transportation prescribes, each owner or operator of a gas pipeline facility shall carry out a program to educate the public on the use of a one-call notification system prior to excavation, the possible hazards associated with gas leaks, and the importance of reporting gas odors and leaks to the appropriate authority. The Secretary may develop material suitable for use in the program.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1321; Pub. L. 104–304, § 11, Oct. 12, 1996, 110 Stat. 3802.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60116	49 App.:1685(a).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, § 18(a); added Oct. 11, 1976, Pub. L. 94–477, § 8, 90 Stat. 2075; Nov. 30, 1979, Pub. L. 96–129, § 104(b), 93 Stat. 992; Oct. 24, 1992, Pub. L. 102–508, § 115(a)(1), 106 Stat. 3296.

AMENDMENTS

1996—Pub. L. 104–304 substituted ''owner or operator of a gas pipeline facility'' for ''person transporting gas'', inserted ''the use of a one-call notification system prior to excavation,'' after ''educate the public on'', and inserted comma after ''gas leaks''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 60102 of this title.

§ 60117. Administrative

(a) GENERAL AUTHORITY.—To carry out this chapter, the Secretary of Transportation may conduct investigations, make reports, issue subpenas, conduct hearings, require the production of records, take depositions, and conduct research, testing, development, demonstration, and training activities and promotional activities relating to prevention of damage to pipeline facilities. The Secretary may not charge a tuition-type fee for training State or local government personnel in the enforcement of regulations prescribed under this chapter.

(b) RECORDS, REPORTS, AND INFORMATION.—To enable the Secretary to decide whether a person owning or operating a pipeline facility is complying with this chapter and standards prescribed or orders issued under this chapter, the person shall—

(1) maintain records, make reports, and provide information the Secretary requires; and

(2) make the records, reports, and information available when the Secretary requests.

The Secretary may require owners and operators of gathering lines to provide the Secretary information pertinent to the Secretary's ability to make a determination as to whether and to what extent to regulate gathering lines.

(c) ENTRY AND INSPECTION.—An officer, employee, or agent of the Department of Transportation designated by the Secretary, on display of proper credentials to the individual in charge, may enter premises to inspect the records and property of a person at a reasonable time and in a reasonable way to decide whether a person is complying with this chapter and standards prescribed or orders issued under this chapter.

(d) CONFIDENTIALITY OF INFORMATION.—Information related to a confidential matter referred to in section 1905 of title 18 that is obtained by the Secretary or an officer, employee, or agent in carrying out this section may be disclosed only to another officer or employee concerned with carrying out this chapter or in a proceeding under this chapter.

(e) USE OF ACCIDENT REPORTS.—(1) Each accident report made by an officer, employee, or agent of the Department may be used in a judicial proceeding resulting from the accident. The officer, employee, or agent may be required to testify in the proceeding about the facts developed in investigating the accident. The report shall be made available to the public in a way that does not identify an individual.

(2) Each report related to research and demonstration projects and related activities is public information.

(f) TESTING FACILITIES INVOLVED IN ACCIDENTS.—The Secretary may require testing of a part of a pipeline facility subject to this chapter that has been involved in or affected by an accident only after—

(1) notifying the appropriate State official in the State in which the facility is located; and

(2) attempting to negotiate a mutually acceptable plan for testing with the owner of the facility and, when the Secretary considers appropriate, the National Transportation Safety Board.

(g) PROVIDING SAFETY INFORMATION.—On request, the Secretary shall provide the Federal Energy Regulatory Commission or appropriate State authority with information the Secretary has on the safety of material, operations, devices, or processes related to pipeline transportation or operating a pipeline facility.

(h) COOPERATION.—The Secretary may—

(1) advise, assist, and cooperate with other departments, agencies, and instrumentalities of the United States Government, the States, and public and private agencies and persons in planning and developing safety standards and ways to inspect and test to decide whether those standards have been complied with;

(2) consult with and make recommendations to other departments, agencies, and instrumentalities of the Government, State and local governments, and public and private agencies and persons to develop and encourage activities, including the enactment of legislation, that will assist in carrying out this chapter and improve State and local pipeline safety programs; and

(3) participate in a proceeding involving safety requirements related to a liquefied natural gas facility before the Commission or a State authority.

(i) PROMOTING COORDINATION.—(1) After consulting with appropriate State officials, the Secretary shall establish procedures to promote more effective coordination between departments, agencies, and instrumentalities of the Government and State authorities with regulatory authority over pipeline facilities about responses to a pipeline accident.

(2) In consultation with the Occupational Safety and Health Administration, the Secretary shall establish procedures to notify the Administration of any pipeline accident in which an excavator that has caused damage to a pipeline may have violated a regulation of the Administration.

(j) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

(k) AUTHORITY FOR COOPERATIVE AGREEMENTS.—To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, or any other entity to further the objectives of this chapter. The objectives of this chapter include the development, improvement, and promotion of one-call damage prevention programs, research, risk assessment, and mapping.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1321; Pub. L. 103–429, § 6(77), Oct. 31, 1994, 108 Stat. 4388; Pub. L. 104–304, §§ 12, 19, Oct. 12, 1996, 110 Stat. 3802, 3804.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60117(a)	49 App.:1681(a) (1st sentence words before semicolon).	Aug. 12, 1968, Pub. L. 90–481, § 14(a) (1st sentence), 82 Stat. 727; restated Nov. 30, 1979, Pub. L. 96–129, §§ 104(b), 106, 93 Stat. 992, 994.
	49 App.:1681(a) (last sentence).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, § 14(a) (last sentence); added Oct. 11, 1984, Pub. L. 98–464, § 7(a), 98 Stat. 1823.
	49 App.:2010(a) (1st sentence words before semicolon).	Nov. 30, 1979, Pub. L. 96–129, § 211(a) (1st sentence), 93 Stat. 1012.
	49 App.:2010(a) (last sentence).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, § 211(a) (last sentence); added Oct. 11, 1984, Pub. L. 98–464, § 7(b), 98 Stat. 1823.
60117(b)	49 App.:1681(b).	Aug. 12, 1968, Pub. L. 90–481, § 14(b)–(e), 82 Stat. 727; restated Nov. 30, 1979, Pub. L. 96–129, §§ 104(b), 106, 93 Stat. 992, 995.
	49 App.:2010(b).	Nov. 30, 1979, Pub. L. 96–129, § 211(b)–(e), 93 Stat. 1012.
60117(c)	49 App.:1681(c). 49 App.:2010(c).	
60117(d)	49 App.:1681(e) (1st sentence). 49 App.:2010(e) (1st sentence).	
60117(e)	49 App.:1681(d). 49 App.:2010(d).	
60117(f)	49 App.:1681(a) (1st sentence words after semicolon).	
	49 App.:1681(a) (2d sentence).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, § 14(a) (2d sentence); added Oct. 31, 1988, Pub. L. 100–561, § 109, 102 Stat. 2809.
	49 App.:2010(a) (1st sentence words after semicolon).	
	49 App.:2010(a) (2d sentence).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, § 211(a) (2d sentence); added Oct. 31, 1988, Pub. L. 100–561, § 208, 102 Stat. 2812.
60117(g)	49 App.:1682(a).	Aug. 12, 1968, Pub. L. 90–481, § 15(a), 82 Stat. 727; Nov. 30, 1979, Pub. L. 96–129, §§ 104(b), 109(j)(2), (k), 155(b), 93 Stat. 992, 997, 1003.
	49 App.:2011(a).	Nov. 30, 1979, Pub. L. 96–129, § 212(a)–(c), 93 Stat. 1013.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60117(h)(1) ..	49 App.:1682(b).	Aug. 12, 1968, Pub. L. 90–481, § 15(b), 82 Stat. 727; Nov. 30, 1979, Pub. L. 96–129, §§ 104(b), 109(j)(2), 93 Stat. 992, 997.
	49 App.:2011(b).	
60117(h)(2) ..	49 App.:1682(c).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, § 15(c); added Aug. 22, 1972, Pub. L. 92–401, § 3, 86 Stat. 616; Nov. 30, 1979, Pub. L. 96–129, §§ 104(b), 109(j)(2), 93 Stat. 992, 997.
	49 App.:2011(c).	
60117(h)(3) ..	49 App.:1682(d).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, § 15(d); added Nov. 30, 1979, Pub. L. 96–129, § 155(a), 93 Stat. 1003.
60117(i)	49 App.:1676(b).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, § 9(b); added Oct. 31, 1988, Pub. L. 100–561, § 105(2), 102 Stat. 2807.
	49 App.:2011(d).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, § 212(d); added Oct. 31, 1988, Pub. L. 100–561, § 209, 102 Stat. 2812.
60117(j)	49 App.:1681(e) (last sentence). 49 App.:2010(e) (last sentence).	

In subsection (a), the words ''to the extent necessary . . . his responsibilities under'' and ''relevant'' are omitted as surplus. The words ''documents and'' are omitted as being included in ''records''. The words ''directly or, by contract, or otherwise'' are omitted as surplus.

In subsections (b), before clause (1), and (c), the words ''has acted or . . . acting'' are omitted as surplus. The word ''prescribed'' is added for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the words ''establish and'' and ''reasonably'' are omitted as surplus.

In subsection (c), the words ''enter premises to'' are substituted for ''enter upon'' for clarity and consistency. The words ''and examine'' and ''to the extent such records and properties are relevant'' are omitted as surplus.

In subsection (d), the words ''related to a confidential matter'' are substituted for ''which information contains or relates to a trade secret . . . shall be considered confidential for the purpose of that section'' to eliminate unnecessary words. The words ''All information reported to or otherwise'' are omitted as surplus. The words ''an officer, employee, or agent'' are substituted for ''his representative'' for consistency. The word ''only'' is substituted for ''except that such information'' to eliminate unnecessary words. The words ''when relevant'' are omitted as surplus.

In subsection (e)(1), the words ''civil, criminal, or other'' are omitted as surplus.

In subsection (f), before clause (1), the words ''however . . . exercise authority under this section to'' are omitted as surplus. In clause (1), the word ''affected'' is omitted as surplus. In clause (2), the word ''attempting'' is substituted for ''make every effort'' to eliminate unnecessary words. The words ''for testing'' and ''the Secretary considers'' are added for clarity.

In subsection (g), the words ''with respect to matters under their jurisdiction'' in 49 App.:2011(a) are omitted as surplus.

In subsection (h)(1) and (2), the word ''instrumentalities'' is added for consistency in the revised title and with other titles of the Code.

In subsection (h)(1), the word ''Federal'' before ''safety'' is omitted as surplus.

In subsection (h)(3), the words ''as a matter of right intervene or otherwise'' and the text of 49 App.:1682(d) (last sentence) are omitted as surplus.

In subsection (i), the words ''Not later than 1 year after October 31, 1988'' are omitted as obsolete. The words ''departments, agencies, and instrumentalities of the Government and State authorities'' are substituted for ''agencies of the United States and of the States'' for consistency in the revised title and with other titles of the Code.

In subsection (j), the words ''by the Secretary or any officer, employee, or agent under his control'' are omitted as surplus. The words ''to have the information'' are substituted for ''duly'' for clarity.

PUB. L. 103–429

This amends 49:60117(i) by restating section 304(c) of the Pipeline Safety Act of 1992 (Public Law 102–508, 106 Stat. 3308) as 49:60117(i)(2).

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60117(i)(2) ...	49 App.:1682 (note).	Oct. 24, 1992, Pub. L. 102–508, §304(c), 106 Stat. 3308.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–304, §19, inserted ''and promotional activities relating to prevention of damage to pipeline facilities'' after ''and training activities''.

Subsec. (b). Pub. L. 104–304, §12(1), (3), substituted ''owning'' for ''transporting gas or hazardous liquid'' and inserted at end ''The Secretary may require owners and operators of gathering lines to provide the Secretary information pertinent to the Secretary's ability to make a determination as to whether and to what extent to regulate gathering lines.''

Subsec. (k). Pub. L. 104–304, §12(2), added subsec. (k).

1994—Subsec. (i). Pub. L. 103–429 designated existing provisions as par. (1) and added par. (2).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 60105, 60108, 60118 of this title.

§ 60118. Compliance and waivers

(a) GENERAL REQUIREMENTS.—A person owning or operating a pipeline facility shall—

(1) comply with applicable safety standards prescribed under this chapter, except as provided in this section or in section 60126;

(2) prepare and carry out a plan for inspection and maintenance required under section 60108(a) and (b) of this title; and

(3) allow access to or copying of records, make reports and provide information, and allow entry or inspection required under section 60117(a)–(d) of this title.

(b) COMPLIANCE ORDERS.—The Secretary of Transportation may issue orders directing compliance with this chapter, an order under section 60126, or a regulation prescribed under this chapter. An order shall state clearly the action a person must take to comply.

(c) WAIVERS BY SECRETARY.—On application of a person owning or operating a pipeline facility, the Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter on terms the Secretary considers appropriate, if the waiver is not inconsistent with pipeline safety. The Secretary shall state the reasons for granting a waiver under this subsection. The Secretary may act on a waiver only after notice and an opportunity for a hearing.

(d) WAIVERS BY STATE AUTHORITIES.—If a certification under section 60105 of this title or an agreement under section 60106 of this title is in effect, the State authority may waive compliance with a safety standard to which the certification or agreement applies in the same way and to the same extent the Secretary may waive compliance under subsection (c) of this section. However, the authority must give the Secretary written notice of the waiver at least 60 days before its effective date. If the Secretary makes a written objection before the effective date of the waiver, the waiver is stayed. After notifying the authority of the objection, the Secretary shall provide a prompt opportunity for a hearing. The Secretary shall make the final decision on granting the waiver.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1322; Pub. L. 104–304, §13, Oct. 12, 1996, 110 Stat. 3802.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60118(a)	49 App.:1677(a).	Aug. 12, 1968, Pub. L. 90–481, §10(a), 82 Stat. 725; Nov. 30, 1979, Pub. L. 96–129, §105(b), 109(h)(4), 152(a), 93 Stat. 994, 996, 999.
	49 App.:2006(a).	Nov. 30, 1979, Pub. L. 96–129, §§203(h), 207(a), (b)(1), 93 Stat. 1005, 1009.
60118(b)	49 App.:1677(b)(1).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §10(b)(1); added Nov. 30, 1979, Pub. L. 96–129, §§104(a)(1), 152(a), 93 Stat. 992, 999.
	49 App.:2006(b)(1).	
60118(c)	49 App.:1672(d) (1st, 2d sentences).	Aug. 12, 1968, Pub. L. 90–481, §3(d), 82 Stat. 721; Nov. 30, 1979, Pub. L. 96–129, §104(d), 109(c), 152(b)(2), 93 Stat. 994, 996, 1001.
	49 App.:2002(h) (1st, 2d sentences).	
60118(d)	49 App.:1672(d) (3d–last sentences).	
	49 App.:2002(h) (3d–last sentences).	

In subsection (a)(1), the words ''at all times after the date . . . takes effect . . . the requirements of'' are omitted as surplus. The words ''except as provided in this section'' are added for clarity.

In subsection (a)(2), the words ''establish and'' in 49 App.:2006(a)(2) and ''and comply with such plan'' are omitted as surplus.

In subsection (b), the word ''prescribed'' is substituted for ''issued'' for consistency in the revised title and with other titles of the United States Code. The word ''particular'' is omitted as surplus. The words ''a person must take to comply'' are substituted for ''required of the person to whom the order is issued'' for clarity and to eliminate unnecessary words.

In subsection (c), the words ''any part of'' are substituted for ''in whole or in part'' to eliminate unnecessary words. The words ''and to such extent'' and ''he determines that . . . of compliance with such standard'' are omitted as surplus.

In subsection (d), the words ''to which the certification or agreement applies'' are added for clarity. The words ''to the granting of the waiver'' and ''any State agency action granting'' are omitted as surplus. The words ''shall provide a prompt opportunity for a hearing'' are substituted for ''shall afford such agency a prompt opportunity to present its request for waiver, with opportunity for hearing'' to eliminate unnecessary words and for consistency in the revised title and with other titles of the Code.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–304, §13(a)(1), struck out ''transporting gas or hazardous liquid or'' after ''person'' in introductory provisions.

Subsec. (a)(1). Pub. L. 104–304, §13(a)(2), added par. (1) and struck out former par. (1) which read as follows: ''comply with applicable safety standards prescribed under this chapter, except as provided in this section;''.

Subsec. (b). Pub. L. 104–304, §13(b), reenacted subsec. heading without change and amended text generally. Prior to amendment, text read as follows: ''The Secretary of Transportation may issue orders directing compliance with this chapter or a regulation prescribed under this chapter. An order shall state clearly the action a person must take to comply.''

Subsec. (c). Pub. L. 104–304, §13(c), substituted ''owning'' for ''transporting gas or hazardous liquid''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 60119, 60122, 60123, 60124 of this title.

§ 60119. Judicial review

(a) REVIEW OF REGULATIONS AND WAIVER ORDERS.—(1) Except as provided in subsection (b) of this section, a person adversely affected by a regulation prescribed under this chapter or an order issued about an application for a waiver under section 60118(c) or (d) of this title may apply for review of the regulation or order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 89 days after the regulation is prescribed or order is issued. The clerk of the court immediately shall send a copy of the petition to the Secretary of Transportation.

(2) A judgment of a court under paragraph (1) of this subsection may be reviewed only by the Supreme Court under section 1254 of title 28. A remedy under paragraph (1) is in addition to any other remedies provided by law.

(b) REVIEW OF FINANCIAL RESPONSIBILITY ORDERS.—(1) A person adversely affected by an order issued under section 60111 of this title may apply for review of the order by filing a petition for review in the appropriate court of appeals of the United States. The petition must be filed not later than 60 days after the order is issued. Findings of fact the Secretary makes are conclusive if supported by substantial evidence.

(2) A judgment of a court under paragraph (1) of this subsection may be reviewed only by the Supreme Court under section 1254(1) of title 28.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1323.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60119(a)(1) ..	49 App.:1675(a).	Aug. 12, 1968, Pub. L. 90–481, §8(a), 82 Stat. 724; Nov. 30, 1979, Pub. L. 96–129, §§104(e)(2), 152(a), 93 Stat. 994, 999; Jan. 14, 1983, Pub. L. 97–468, §102, 96 Stat. 2543.
	49 App.:2005(a).	Nov. 30, 1979, Pub. L. 96–129, §206(a), 93 Stat. 1009; Jan. 14, 1983, Pub. L. 97–468, §103, 96 Stat. 2543.
60119(a)(2) ..	49 App.:1675(b), (c).	Aug. 12, 1968, Pub. L. 90–481, §8(b), (c), 82 Stat. 724; Nov. 30, 1979, Pub. L. 96–129, §§104(e)(3), 152(a), 93 Stat. 994, 999.
	49 App.:1675(d), (e).	Aug. 12, 1968, Pub. L. 90–481, §8(d), (e), 82 Stat. 725; Nov. 30, 1979, Pub. L. 96–129, §152(a), 93 Stat. 999.
	49 App.:2005(b)–(e).	Nov. 30, 1979, Pub. L. 96–129, §206(b)–(e), 93 Stat. 1009.
60119(b)(1) ..	49 App.:1674b(b)(4)(A), (B).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §7(b)(4); added Nov. 30, 1979, Pub. L. 96–129, §153, 93 Stat. 1002.
60119(b)(2) ..	49 App.:1674b(b)(4)(C).	

HISTORICAL AND REVISION NOTES—CONTINUED

In this section, the word ''judicial'' is omitted as surplus.

In subsection (a)(1), the words ''Except as provided in subsection (b) of this section'' are added for clarity. The words ''who is or will be . . . or aggrieved'' are omitted as surplus. The word ''prescribed'' is added for consistency in the revised title and with other titles of the United States Code. The word ''Circuit'' is added to complete the proper title of the Court. The word ''resides'' is substituted for ''located'' for clarity and for consistency in the revised title and with other titles of the Code. The words ''or other officer designated by him for that purpose'' are omitted as surplus because of 49:322(b).

In subsection (a)(2), the text of 49 App.:1675(b) and 2005(b) is omitted as surplus because of 28:1331 and because 5:ch. 7 applies in the absence of an exception. The text of 49 App.:1675(d) and 2005(d) is omitted as covered by rule 43 of the Federal Rules of Appellate Procedure (28 App. U.S.C.). The words ''affirming or setting aside, in whole or in part, any such regulation or order of the Secretary'' are omitted as surplus. The words ''may be reviewed only'' are substituted for ''shall be final, subject to review'' for consistency. The words ''and not in substitution for'' are omitted as surplus.

In subsection (b)(1), the words ''adversely affected'' are substituted for ''aggrieved'' for consistency in the revised title and with other titles of the Code. The word ''only'' is omitted as surplus. The text of 49 App.:1674b(b)(4)(B) (1st sentence) is omitted as surplus because 28:2112 applies in the absence of an exception. The text of 49 App.:1674b(b)(4)(B) (2d sentence) is omitted as surplus and because of 28:1651.

In subsection (b)(2), the words ''and decree'' are omitted as surplus. The words ''may be reviewed only'' are substituted for ''shall be final, except that such judgment and decree shall be subject to review'' for consistency and to eliminate unnecessary words. The words ''upon certiorari'' are omitted as surplus because of 28:1254(1).

§ 60120. Enforcement

(a) CIVIL ACTIONS.—(1) On the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including punitive damages.

(2) At the request of the Secretary, the Attorney General may bring a civil action in a district court of the United States to require a person to comply immediately with a subpena or to allow an officer, employee, or agent authorized by the Secretary to enter the premises, and inspect the records and property, of the person to decide whether the person is complying with this chapter. The action may be brought in the judicial district in which the defendant resides, is found, or does business. The court may punish a failure to obey the order as a contempt of court.

(b) JURY TRIAL DEMAND.—In a trial for criminal contempt for violating an injunction issued under this section, the violation of which is also

a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(c) EFFECT ON TORT LIABILITY.—This chapter does not affect the tort liability of any person.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1323.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60120(a)(1) ..	49 App.:1677(b)(2).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §10(b)(2); added Nov. 30, 1979, Pub. L. 96–129, §§104(a)(1), 152(a), 93 Stat. 992, 999.
	49 App.:1679b(a)(1).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §12(a); added Nov. 30, 1979, Pub. L. 96–129, §104(b), 93 Stat. 993.
	49 App.:2006(b)(2).	Nov. 30, 1979, Pub. L. 96–129, §§207(b)(2), (c), 209(a), 93 Stat. 1009, 1010.
	49 App.:2008(a)(1).	
60120(a)(2) ..	49 App.:1681(f).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §14(f); added Oct. 24, 1992, Pub. L. 102–508, §112(b), 106 Stat. 3295.
	49 App.:2010(f).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §211(f); added Oct. 24, 1992, Pub. L. 102–508, §211(b), 106 Stat. 3304.
60120(b)	49 App.:1679b(a)(2). 49 App.:2008(a)(2).	
60120(c)	49 App.:1677(c).	Aug. 12, 1968, Pub. L. 90–481, §10(c), 82 Stat. 725; Nov. 30, 1979, Pub. L. 96–129, §§104(a)(1), 152(a), 93 Stat. 992, 999.
	49 App.:2006(c).	

In subsection (a)(1), the text of 49 App.:1677(b)(2) and 2006(b)(2) and the words ''shall have jurisdiction to determine such actions'' in 49 App.:1679b(a)(1) and 2008(a)(1) are omitted as redundant and because of 28:1331 and 1345. The word ''civil'' is added for consistency in the revised title and with other titles of the United States Code and because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''to enforce this chapter'' are substituted for ''for equitable relief to redress or restrain a violation by any person of a provision of this chapter'' to eliminate unnecessary words. The word ''prescribed'' is substituted for ''issued'' for consistency in the revised title and with other titles of the Code. The words ''necessary or . . . mandatory or prohibitive injunctive relief, interim equitable relief, and'' are omitted as surplus.

In subsection (a)(2), the words ''the Attorney General may bring a civil action in a district court of the United States'' are substituted for ''such district court shall, upon the request of the Attorney General . . . have jurisdiction to issue to such person an order'' for clarity and consistency and because of 28:1331 and 1345. The words ''contumacy or'' are omitted as surplus. The word ''premises'' is added for clarity and consistency. The words ''or examine'' are omitted as being included in ''inspect''.

In subsection (b), the words ''mandatory or prohibitive'' are omitted as surplus. The words ''the defendant may demand a jury trial'' are substituted for ''trial shall be by the court or, upon demand of the accused, by a jury'' to eliminate unnecessary words and for consistency in the revised title and with other titles of the Code.

In subsection (c), the words ''common law or statutory'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 60105, 60114 of this title.

§ 60121. Actions by private persons

(a) GENERAL AUTHORITY.—(1) A person may bring a civil action in an appropriate district court of the United States for an injunction against another person (including the United States Government and other governmental authorities to the extent permitted under the 11th amendment to the Constitution) for a violation of this chapter or a regulation prescribed or order issued under this chapter. However, the person—

(A) may bring the action only after 60 days after the person has given notice of the violation to the Secretary of Transportation or to the appropriate State authority (when the violation is alleged to have occurred in a State certified under section 60105 of this title) and to the person alleged to have committed the violation;

(B) may not bring the action if the Secretary or authority has begun and diligently is pursuing an administrative proceeding for the violation; and

(C) may not bring the action if the Attorney General of the United States, or the chief law enforcement officer of a State, has begun and diligently is pursuing a judicial proceeding for the violation.

(2) The Secretary shall prescribe the way in which notice is given under this subsection.

(3) The Secretary, with the approval of the Attorney General, or the Attorney General may intervene in an action under paragraph (1) of this subsection.

(b) COSTS AND FEES.—The court may award costs, reasonable expert witness fees, and a reasonable attorney's fee to a prevailing plaintiff in a civil action under this section. The court may award costs to a prevailing defendant when the action is unreasonable, frivolous, or meritless. In this subsection, a reasonable attorney's fee is a fee—

(1) based on the actual time spent and the reasonable expenses of the attorney for legal services provided to a person under this section; and

(2) computed at the rate prevailing for providing similar services for actions brought in the court awarding the fee.

(c) STATE VIOLATIONS AS VIOLATIONS OF THIS CHAPTER.—In this section, a violation of a safety standard or practice of a State is deemed to be a violation of this chapter or a regulation prescribed or order issued under this chapter only to the extent the standard or practice is not more stringent than a comparable minimum safety standard prescribed under this chapter.

(d) ADDITIONAL REMEDIES.—A remedy under this section is in addition to any other remedies provided by law. This section does not restrict a right to relief that a person or a class of persons may have under another law or at common law.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1324.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60121(a)(1) ..	49 App.:1686(a), (b) (1st sentence).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §19; added Oct. 11, 1976, Pub. L. 94–477, §8, 90 Stat. 2075; Nov. 30, 1979, Pub. L. 96–129, §104(b), 93 Stat. 992.
	49 App.:2014(a), (b) (1st sentence).	Nov. 30, 1979, Pub. L. 96–129, §215, 93 Stat. 1014.
60121(a)(2) ..	49 App.:1686(b) (last sentence).	
	49 App.:2014(b) (last sentence).	
60121(a)(3) ..	49 App.:1686(c).	
	49 App.:2014(c).	
60121(b)	49 App.:1686(e).	
	49 App.:2014(e).	
60121(c)	49 App.:1686(f).	
	49 App.:2014(f).	
60121(d)	49 App.:1686(d).	
	49 App.:2014(d).	

In subsection (a)(1), before clause (A), the text of 49 App.:1686(a) (last sentence, words after the comma) and 2014(a) (last sentence, words after the comma) is omitted as surplus because the amount in controversy is no longer a criterion. The word ''bring'' is substituted for ''commence'' for consistency in the revised title and with other titles of the United States Code. The words ''mandatory or prohibitive'', ''including interim equitable relief'', ''State, municipality, or'', and ''alleged to be'' are omitted as surplus. The word ''prescribed'' is added for consistency in the revised title and with other titles of the Code.

In subsection (a)(2), the words ''by regulation'' are omitted as surplus because of 49:322(a).

In subsection (a)(3), the words ''as a matter of right'' are omitted as surplus.

In subsection (b), before clause (1), the words ''in the interest of justice'' and ''of suit, including'' are omitted as surplus. In clause (1), the words ''by an attorney'' and ''advice and other'' are omitted as surplus. The words ''provided to a person under this section'' are substituted for ''providing . . . in connection with representing a person in an action brought under this section'' to eliminate unnecessary words.

In subsection (c), the word ''Federal'' is omitted as surplus. The words ''prescribed under this chapter'' are added for clarity.

In subsection (d), the words ''enforcement of this chapter or any order or regulation under this chapter or to seek any other'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 60105 of this title.

§ 60122. Civil penalties

(a) GENERAL PENALTIES.—(1) A person that the Secretary of Transportation decides, after written notice and an opportunity for a hearing, has violated section 60114(c)[1] or 60118(a) of this title or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than $25,000 for each violation. A separate violation occurs for each day the violation continues. The maximum civil penalty under this paragraph for a related series of violations is $500,000.

(2) A person violating a standard or order under section 60103 or 60111 of this title is liable to the Government for a civil penalty of not more than $50,000 for each violation. A penalty under this paragraph may be imposed in addition to penalties imposed under paragraph (1) of this subsection.

[1] See References in Text note below.

(b) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section, the Secretary shall consider—

(1) the nature, circumstances, and gravity of the violation;

(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on ability to continue doing business;

(3) good faith in attempting to comply; and

(4) other matters that justice requires.

(c) COLLECTION AND COMPROMISE.—(1) The Secretary may request the Attorney General to bring a civil action in an appropriate district court of the United States to collect a civil penalty imposed under this section.

(2) The Secretary may compromise the amount of a civil penalty imposed under this section before referral to the Attorney General.

(d) SETOFF.—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(e) DEPOSIT IN TREASURY.—Amounts collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(f) PROHIBITION ON MULTIPLE PENALTIES FOR SAME ACT.—Separate penalties for violating a regulation prescribed under this chapter and for violating an order under section 60112 or 60118(b) of this title may not be imposed under this chapter if both violations are based on the same act.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1325.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60122(a)(1) ..	49 App.:1679a(a)(1), (3) (1st sentence).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §11(a); added Nov. 30, 1979, Pub. L. 96–129, §§104(b), 154, 93 Stat. 992, 1002; Oct. 31, 1988, Pub. L. 100–561, §106, 102 Stat. 2807; Oct. 24, 1992, Pub. L. 102–508, §§112(a), 304(b), 106 Stat. 3295, 3308.
	49 App.:2007(a)(1), (2) (1st sentence).	Nov. 30, 1979, Pub. L. 96–129, §208(a), (b), (d), 93 Stat. 1009, 1010; Oct. 31, 1988, Pub. L. 100–561, §205, 102 Stat. 2811; Oct. 24, 1992, Pub. L. 102–508, §211(a), 106 Stat. 3304.
60122(a)(2) ..	49 App.:1679a(a)(2).	
60122(b)	49 App.:1679a(a)(3) (last sentence).	
	49 App.:2007(a)(2) (last sentence).	
60122(c)	49 App.:1679a(b) (1st sentence).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §11(b), (d); added Nov. 30, 1979, Pub. L. 96–129, §104(b), 93 Stat. 992, 993.
	49 App.:2007(b) (1st sentence).	
60122(d)	49 App.:1679a(b) (2d sentence).	
	49 App.:2007(b) (2d sentence).	
60122(e)	49 App.:1679a(b) (last sentence).	
	49 App.:2007(b) (last sentence).	
60122(f)	49 App.:1679a(d).	
	49 App.:2007(d).	

In subsection (a)(1), the word ''prescribed'' is added for consistency in the revised title and with other titles of the United States Code. The words ''including any order issued under sections 1677(b) and 1679b(b)'' in 49 App.:1679a(a)(1) and ''including any order issued under

section 2006(b) or 2008(b)'' in 49 App.:2007(a)(1) are omitted as surplus. The word ''occurs'' is added for clarity.

In subsection (a)(2), the words ''is determined by the Secretary to have'' are omitted as surplus. The words ''for each violation'' are added for clarity and consistency. The word ''imposed'' is substituted for ''to which such person may be subject'' for consistency and to eliminate unnecessary words.

In subsection (b)(2), the word ''violator'' is substituted for ''the person found to have committed the violation'' for consistency and to eliminate unnecessary words. The words ''the penalty'' are omitted as surplus.

In subsection (c)(1), the words ''The Secretary may request the Attorney General to bring a civil action'' are substituted for ''in an action brought by the Attorney General on behalf of the United States'' for clarity, to eliminate unnecessary words, and because of 28:2461 and rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (d), the words ''imposed or compromised under this section'' are substituted for ''of the penalty, when finally determined (or agreed upon in compromise)'' to eliminate unnecessary words and for consistency. The words ''liable for the penalty'' are substituted for ''charged'' for clarity.

In subsection (f), the words ''Separate penalties . . . prescribed under this chapter . . . may not be imposed under this chapter'' are substituted for ''Nothing in this title shall be construed to authorize . . . penalties'' for clarity.

REFERENCES IN TEXT

Section 60114(c) of this title, referred to in subsec. (a), was redesignated section 60114(b) by Pub. L. 104–304, §20(d), Oct. 12, 1996, 110 Stat. 3804.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 60105, 60114 of this title.

§ 60123. Criminal penalties

(a) GENERAL PENALTY.—A person knowingly and willfully violating section 60114(c),[1] 60118(a), or 60128 of this title or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both.

(b) PENALTY FOR DAMAGING OR DESTROYING FACILITY.—A person knowingly and willfully damaging or destroying, or attempting to damage or destroy, an interstate gas pipeline facility or interstate hazardous liquid pipeline facility shall be fined under title 18, imprisoned for not more than 15 years, or both.

(c) PENALTY FOR DAMAGING OR DESTROYING SIGN.—A person knowingly and willfully defacing, damaging, removing, or destroying a pipeline sign or right-of-way marker required by a law or regulation of the United States shall be fined under title 18, imprisoned for not more than one year, or both.

(d) PENALTY FOR NOT USING ONE-CALL NOTIFICATION SYSTEM OR NOT HEEDING LOCATION INFORMATION OR MARKINGS.—A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person knowingly and willfully—

(1) engages in an excavation activity—

(A) without first using an available one-call notification system to establish the location of underground facilities in the excavation area; or

(B) without paying attention to appropriate location information or markings the operator of a pipeline facility establishes; and

(2) subsequently damages—

(A) a pipeline facility that results in death, serious bodily harm, or actual damage to property of more than $50,000;

(B) a pipeline facility that does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or

(C) a hazardous liquid pipeline facility that results in the release of more than 50 barrels of product.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1325; Pub. L. 104–304, §§14, 18(b)(1), Oct. 12, 1996, 110 Stat. 3803, 3804.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60123(a)	49 App.:1679a(c)(1).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §11(c)(1); added Nov. 30, 1979, Pub. L. 96–129, §104(b), 93 Stat. 992; Oct. 24, 1992, Pub. L. 102–508, §304(b), 106 Stat. 3308.
	49 App.:2007(c)(1).	Nov. 30, 1979, Pub. L. 96–129, §208(c)(1), (2), 93 Stat. 1010.
60123(b)	49 App.:1679a(c)(2).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §11(c)(2); added Nov. 30, 1979, Pub. L. 96–129, §104(b), 93 Stat. 992.
	49 App.:2007(c)(2).	
60123(c)	49 App.:1679a(c)(3).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §11(c)(3); added Oct. 31, 1988, Pub. L. 100–561, §107, 102 Stat. 2807.
	49 App.:2007(c)(3).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §208(c)(3); added Oct. 31, 1988, Pub. L. 100–561, §206, 102 Stat. 2811.
60123(d)	49 App.:1687(g).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §20(g); added Oct. 24, 1992, Pub. L. 102–508, §304(a), 106 Stat. 3307.

In this section, the words ''upon conviction . . . subject, for each offense, to'' and ''a term'' are omitted as surplus.

In subsections (a)–(c), the words ''fined under title 18'' are substituted for ''a fine of not more than $25,000'' and ''a fine of not more than $5,000'' for consistency with title 18.

In subsection (a), the word ''prescribed'' is added for consistency in the revised title and with other titles of the United States Code. The words ''including any order issued under section 1677(b) and 1679b(b) of this Appendix'' in 49 App.:1679a(c)(1) and ''including any order issued under section 2006(b) or 2008(b) of the Appendix'' in 49 App.:2007(c)(1) are omitted as surplus.

In subsection (b), the word ''damaging'' is substituted for ''injures'', and the word ''damage'' is substituted for ''injure'', for clarity.

REFERENCES IN TEXT

Section 60114(c) of this title, referred to in subsec. (a), was redesignated section 60114(b) by Pub. L. 104–304, §20(d), Oct. 12, 1996, 110 Stat. 3804.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–304, §18(b)(1), substituted '', 60118(a), or 60128'' for ''or 60118(a)''.

Subsec. (d)(2). Pub. L. 104–304, §14, added subpar. (B) and redesignated former subpar. (B) as (C).

[1] See References in Text note below.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 60108 of this title; title 18 sections 2332b, 2516.

§ 60124. Biennial reports

(a) SUBMISSION AND CONTENTS.—Not later than August 15, 1997, and every 2 years thereafter, the Secretary of Transportation shall submit to Congress a report on carrying out this chapter for the 2 immediately preceding calendar years for gas and a report on carrying out this chapter for such period for hazardous liquid. Each report shall include the following information about the prior year for gas or hazardous liquid, as appropriate:

(1) a thorough compilation of the leak repairs, accidents, and casualties and a statement of cause when investigated and established by the National Transportation Safety Board.

(2) a list of applicable pipeline safety standards prescribed under this chapter including identification of standards prescribed during the year.

(3) a summary of the reasons for each waiver granted under section 60118(c) and (d) of this title.

(4) an evaluation of the degree of compliance with applicable safety standards, including a list of enforcement actions and compromises of alleged violations by location and company name.

(5) a summary of outstanding problems in carrying out this chapter, in order of priority.

(6) an analysis and evaluation of—

(A) research activities, including their policy implications, completed as a result of the United States Government and private sponsorship; and

(B) technological progress in safety achieved.

(7) a list, with a brief statement of the issues, of completed or pending judicial actions under this chapter.

(8) the extent to which technical information was distributed to the scientific community and consumer-oriented information was made available to the public.

(9) a compilation of certifications filed under section 60105 of this title that were—

(A) in effect; or

(B) rejected in any part by the Secretary and a summary of the reasons for each rejection.

(10) a compilation of agreements made under section 60106 of this title that were—

(A) in effect; or

(B) ended in any part by the Secretary and a summary of the reasons for ending each agreement.

(11) a description of the number and qualifications of State pipeline safety inspectors in each State for which a certification under section 60105 of this title or an agreement under section 60106 of this title is in effect and the number and qualifications of inspectors the Secretary recommends for that State.

(12) recommendations for legislation the Secretary considers necessary—

(A) to promote cooperation among the States in improving—

(i) gas pipeline safety; or

(ii) hazardous liquid pipeline safety programs; and

(B) to strengthen the national gas pipeline safety program.

(b) SUBMISSION OF ONE REPORT.—The Secretary may submit one report to carry out subsection (a) of this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1326; Pub. L. 104–66, title I, § 1121(*l*), Dec. 21, 1995, 109 Stat. 724; Pub. L. 104–304, § 15(a), Oct. 12, 1996, 110 Stat. 3803.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60124(a)	49 App.:1683(a).	Aug. 12, 1968, Pub. L. 90–481, § 16(a), 82 Stat. 728; Oct. 11, 1976, Pub. L. 94–477, § 7, 90 Stat. 2075; Nov. 30, 1979, Pub. L. 96–129, §§ 104(b), 107, 109(*l*), (m), 93 Stat. 992, 995, 997; Oct. 11, 1984, Pub. L. 98–464, § 3(a), 98 Stat. 1821; Oct. 24, 1992, Pub. L. 102–508, § 110(b), 106 Stat. 3295.
	49 App.:1683(b).	Aug. 12, 1968, Pub. L. 90–481, § 16(b), 82 Stat. 728; Nov. 30, 1979, Pub. L. 96–129, § 104(b), 93 Stat. 992.
	49 App.:2012(a).	Nov. 30, 1979, Pub. L. 96–129, § 213(a), 93 Stat. 1013; Oct. 11, 1984, Pub. L. 98–464, § 3(b), 98 Stat. 1821; Oct. 24, 1992, Pub. L. 102–508, § 209(b), 106 Stat. 3304.
	49 App.:2012(b).	Nov. 30, 1979, Pub. L. 96–129, § 213(b), (c), 93 Stat. 1014.
60124(b)	49 App.:2012(c).	

In subsection (a), before clause (1), the words ''prepare and'' and ''comprehensive'' are omitted as surplus. The words ''the following information'' are added for clarity. The words ''about the prior year'' are substituted for ''occurring in such year'', ''established or in effect in such year'', ''during such year'', and ''during the preceding calendar year'' to eliminate unnecessary words. In clause (2), the word ''Federal'' is omitted as surplus. The word ''prescribed'' is substituted for ''established or in effect'' and ''established'' for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words. The word ''newly'' is omitted as surplus. In clause (4), the words ''for the transportation of gas and pipeline facilities'' in 49 App.:1683(a)(4) and ''for the transportation of hazardous liquids and pipeline facilities'' in 49 App.:2012(a)(4) are omitted because of the restatement. In clause (5), the words ''in carrying out'' are substituted for ''confronting the administration of'' for consistency. In clause (9), before subclause (A), the words ''by State agencies (including municipalities)'' are omitted as surplus. In clauses (9)(B) and (10)(B), the words ''in any part'' are added for clarity. In clause (10), before subclause (A), the words ''with State agencies (including municipalities)'' are omitted as surplus. In clause (12), before subclause (A), the word ''additional'' is omitted as surplus. In subclause (A), the word ''several'' is omitted as surplus.

In subsection (b), the words ''annual'' and ''the report requirements of'' are omitted as surplus.

AMENDMENTS

1996—Pub. L. 104–304, § 15(a)(1), substituted ''Biennial'' for ''Annual'' in section catchline.

Subsec. (a). Pub. L. 104–304, § 15(a)(2), inserted first sentence and struck out former first sentence which read as follows: ''The Secretary of Transportation shall submit to Congress not later than August 15 of each

odd-numbered year a report on carrying out this chapter for the prior calendar year for gas and a report on carrying out this chapter for the prior calendar year for hazardous liquid.''

1995—Subsec. (a). Pub. L. 104–66 substituted ''of each odd-numbered year'' for ''of each year'' in first sentence of introductory provisions.

§ 60125. Authorization of appropriations

(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter (except for sections 60107 and 60114(b))[1] related to gas and hazardous liquid, there are authorized to be appropriated to the Department of Transportation—

(1) $19,448,000 for fiscal year 1996;

(2) $20,028,000 for fiscal year 1997, of which $14,600,000 is to be derived from user fees for fiscal year 1997 collected under section 60301 of this title;

(3) $20,729,000 for fiscal year 1998, of which $15,100,000 is to be derived from user fees for fiscal year 1998 collected under section 60301 of this title;

(4) $21,442,000 for fiscal year 1999, of which $15,700,000 is to be derived from user fees for fiscal year 1999 collected under section 60301 of this title; and

(5) $22,194,000 for fiscal year 2000, of which $16,300,000 is to be derived from user fees for fiscal year 2000 collected under section 60301 of this title.

(b) HAZARDOUS LIQUID.—Not more than the following amounts may be appropriated to the Secretary to carry out this chapter (except sections 60107 and 60114(b))[1] related to hazardous liquid:

(1) $1,728,500 for the fiscal year ending September 30, 1993.

(2) $1,866,800 for the fiscal year ending September 30, 1994.

(3) $2,000,000 for the fiscal year ending September 30, 1995.

(c) STATE GRANTS.—(1) Not more than the following amounts may be appropriated to the Secretary to carry out section 60107 of this title:

(A) $7,750,000 for the fiscal year ending September 30, 1993.

(B) $9,000,000 for the fiscal year ending September 30, 1994.

(C) $10,000,000 for the fiscal year ending September 30, 1995.

(D) $12,000,000 for fiscal year 1996.

(E) $14,000,000 for fiscal year 1997, of which $12,500,000 is to be derived from user fees for fiscal year 1997 collected under section 60301 of this title.

(F) $14,490,000 for fiscal year 1998, of which $12,900,000 is to be derived from user fees for fiscal year 1998 collected under section 60301 of this title.

(G) $15,000,000 for fiscal year 1999, of which $13,300,000 is to be derived from user fees for fiscal year 1999 collected under section 60301 of this title.

(H) $15,524,000 for fiscal year 2000, of which $13,700,000 is to be derived from user fees for fiscal year 2000 collected under section 60301 of this title.

(2) At least 5 percent of amounts appropriated to carry out United States Government grants-in-aid programs for a fiscal year are available only to carry out section 60107 of this title related to hazardous liquid.

(3) Not more than 20 percent of a pipeline safety program grant under section 60107 of this title may be allocated to indirect expenses.

(d) GRANTS FOR ONE-CALL NOTIFICATION SYSTEMS.—Not more than $_____ may be appropriated to the Secretary for the fiscal year ending September 30, 19__, to carry out section 60114(b)[1] of this title. Amounts under this subsection remain available until expended.

(e) CREDITING APPROPRIATIONS FOR EXPENDITURES FOR TRAINING.—The Secretary may credit to an appropriation authorized under subsection (a) or (b) of this section amounts received from sources other than the Government for reimbursement for expenses incurred by the Secretary in providing training.

(f) AVAILABILITY OF UNUSED AMOUNTS FOR GRANTS.—(1) The Secretary shall make available for grants to States amounts appropriated for each of the fiscal years that ended September 30, 1986, and 1987, that have not been expended in making grants under section 60107 of this title.

(2) A grant under this subsection is available to a State that after December 31, 1987—

(A) undertakes a new responsibility under section 60105 of this title; or

(B) implements a one-call damage prevention program established under State law.

(3) This subsection does not authorize a State to receive more than 50 percent of its allowable pipeline safety costs from a grant under this chapter.

(4) A State may receive not more than $75,000 under this subsection.

(5) Amounts under this subsection remain available until expended.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1327; Pub. L. 104–304, § 21, Oct. 12, 1996, 110 Stat. 3805.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60125(a)	49 App.:1684(a) (1st sentence).	Aug. 12, 1968, Pub. L. 90–481, § 17(a), 82 Stat. 729; Aug. 22, 1972, Pub. L. 92–401, § 4, 86 Stat. 616; Aug. 30, 1974, Pub. L. 93–403, § 3, 88 Stat. 802; Oct. 11, 1976, Pub. L. 94–477, § 2(1), 90 Stat. 2073; restated Nov. 30, 1979, Pub. L. 96–129, §§ 104(b), 108, 93 Stat. 992, 996; Oct. 11, 1984, Pub. L. 98–464, § 1(a), 98 Stat. 1821; Apr. 7, 1986, Pub. L. 99–272, §§ 7001, 7002(b)(4), 100 Stat. 139; Oct. 22, 1986, Pub. L. 99–516, § 1(a), 100 Stat. 2965; Oct. 31, 1988, Pub. L. 100–561, §§ 110, 303(b)(2), 102 Stat. 2809, 2816; Oct. 24, 1992, Pub. L. 102–508, § 114, 106 Stat. 3296.
60125(b)	49 App.:2013(a) (1st sentence).	Nov. 30, 1979, Pub. L. 96–129, § 214(a), 93 Stat. 1014; Oct. 11, 1984, Pub. L. 98–464, § 2(a), 98 Stat. 1821; Apr. 7, 1986, Pub. L. 99–272, §§ 7002(b)(3), 7004, 100 Stat. 139, 140; Oct. 22, 1986, Pub. L. 99–516, § 2, 100 Stat. 2965; Oct. 31, 1988, Pub. L. 100–561, § 210, 102 Stat. 2812; Oct. 24, 1992, Pub. L. 102–508, § 214, 106 Stat. 3305.

[1] See References in Text note below.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60125(c)(1) ..	49 App.:1684(c).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §17(c); added Apr. 7, 1986, Pub. L. 99–272, §7002(a), 100 Stat. 139; Oct. 22, 1986, Pub. L. 99–516, §1(b), 100 Stat. 2965; Oct. 31, 1988, Pub. L. 100–561, §301(a), 102 Stat. 2813; Oct. 24, 1992, Pub. L. 102–508, §301, 106 Stat. 3307.
60125(c)(2), (3).	49 App.:1684(d).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §17(d); added Apr. 7, 1986, Pub. L. 99–272, §7002(a), 100 Stat. 139; Oct. 31, 1988, Pub. L. 100–561, §301(b), 102 Stat. 2813.
60125(d)	49 App.:1687(f).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §20(f); added Oct. 31, 1988, Pub. L. 100–561, §303(a), 102 Stat. 2816.
60125(e)	49 App.:1684(a) (2d, last sentences). 49 App.:2013(a) (last sentence).	
60125(f)	49 App.:1684(e).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §17(e); added Oct. 31, 1988, Pub. L. 100–561, §301(c), 102 Stat. 2814.

In this section, references to fiscal years ending September 30, 1980, 1981, and 1985–1992, are omitted as expired.

In subsection (a), the words ''(except sections 60107 and 60114(b))'' are substituted for ''(other than provisions for which funds are authorized to be appropriated under subsection . . . (c) of this section or section 1687 of this Appendix)'' to eliminate unnecessary words. The reference to subsection (b) is omitted as obsolete.

In subsection (b), the words ''(except sections 60107'' are substituted for ''(other than provisions for which funds are authorized to be appropriated under . . . section 1684(c) of this Appendix)'' to eliminate unnecessary words. The words ''subsection (b) of this section or'' are omitted as obsolete. The reference to section 60114(b) of the revised title is added for clarity.

In subsection (c)(1) and (2), the words ''the Federal grants-in-aid provisions of'' are omitted as surplus.

In subsection (c)(3), the words ''the amount of'' are omitted as surplus. The word ''program'' is added for consistency in this chapter. The words ''made to a State'' are omitted as surplus.

In subsection (e), the text of 49 App.:1684(a) (last sentence) is omitted as expired.

In subsection (f)(5), the words ''made available'' are omitted as surplus.

REFERENCES IN TEXT

Section 60114(b) of this title, referred to in subsecs. (a), (b), and (d), which related to grants to States to establish one-call notification systems, was repealed and section 60114(c) was redesignated section 60114(b) by Pub. L. 104–304, §20(d)(2), (3), Oct. 12, 1996, 110 Stat. 3804.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–304, §21(a)(1), added subsec. (a) and struck out former subsec. (a) which read as follows:

''(a) GAS.—Not more than the following amounts may be appropriated to the Secretary of Transportation to carry out this chapter (except sections 60107 and 60114(b)) related to gas:

''(1) $6,857,000 for the fiscal year ending September 30, 1993.

''(2) $7,000,000 for the fiscal year ending September 30, 1994.

''(3) $7,500,000 for the fiscal year ending September 30, 1995.''

Subsec. (c)(1). Pub. L. 104–304, §21(b), added subpars. (D) to (H).

§ 60126. Risk management

(a) RISK MANAGEMENT PROGRAM DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—The Secretary shall establish risk management demonstration projects—

(A) to demonstrate, through the voluntary participation by owners and operators of gas pipeline facilities and hazardous liquid pipeline facilities, the application of risk management; and

(B) to evaluate the safety and cost-effectiveness of the program.

(2) EXEMPTIONS.—In carrying out a demonstration project under this subsection, the Secretary, by order—

(A) may exempt an owner or operator of the pipeline facility covered under the project (referred to in this subsection as a ''covered pipeline facility''), from the applicability of all or a portion of the requirements under this chapter that would otherwise apply to the covered pipeline facility; and

(B) shall exempt, for the period of the project, an owner or operator of the covered pipeline facility, from the applicability of any new standard that the Secretary promulgates under this chapter during the period of that participation, with respect to the covered facility.

(b) REQUIREMENTS.—In carrying out a demonstration project under this section, the Secretary shall—

(1) invite owners and operators of pipeline facilities to submit risk management plans for timely approval by the Secretary;

(2) require, as a condition of approval, that a risk management plan submitted under this subsection contain measures that are designed to achieve an equivalent or greater overall level of safety than would otherwise be achieved through compliance with the standards contained in this chapter or promulgated by the Secretary under this chapter;

(3) provide for—

(A) collaborative government and industry training;

(B) methods to measure the safety performance of risk management plans;

(C) the development and application of new technologies;

(D) the promotion of community awareness concerning how the overall level of safety will be maintained or enhanced by the demonstration project;

(E) the development of models that categorize the risks inherent to each covered pipeline facility, taking into consideration the location, volume, pressure, and material transported or stored by that pipeline facility;

(F) the application of risk assessment and risk management methodologies that are suitable to the inherent risks that are determined to exist through the use of models developed under subparagraph (E);

(G) the development of project elements that are necessary to ensure that—

(i) the owners and operators that participate in the demonstration project dem-

onstrate that they are effectively managing the risks referred to in subparagraph (E); and

(ii) the risk management plans carried out under the demonstration project under this subsection can be audited;

(H) a process whereby an owner or operator of a pipeline facility is able to terminate a risk management plan or, with the approval of the Secretary, to amend, modify, or otherwise adjust a risk management plan referred to in paragraph (1) that has been approved by the Secretary pursuant to that paragraph to respond to—

(i) changed circumstances; or

(ii) a determination by the Secretary that the owner or operator is not achieving an overall level of safety that is at least equivalent to the level that would otherwise be achieved through compliance with the standards contained in this chapter or promulgated by the Secretary under this chapter;

(I) such other elements as the Secretary, with the agreement of the owners and operators that participate in the demonstration project under this section, determines to further the purposes of this section; and

(J) an opportunity for public comment in the approval process; and

(4) in selecting participants for the demonstration project, take into consideration the past safety and regulatory performance of each applicant who submits a risk management plan pursuant to paragraph (1).

(c) EMERGENCIES AND REVOCATIONS.—Nothing in this section diminishes or modifies the Secretary's authority under this title to act in case of an emergency. The Secretary may revoke any exemption granted under this section for substantial noncompliance with the terms and conditions of an approved risk management plan.

(d) PARTICIPATION BY STATE AUTHORITY.—In carrying out this section, the Secretary may provide for consultation by a State that has in effect a certification under section 60105. To the extent that a demonstration project comprises an intrastate natural gas pipeline or an intrastate hazardous liquid pipeline facility, the Secretary may make an agreement with the State agency to carry out the duties of the Secretary for approval and administration of the project.

(e) REPORT.—Not later than March 31, 2000, the Secretary shall transmit to the Congress a report on the results of the demonstration projects carried out under this section that includes—

(1) an evaluation of each such demonstration project, including an evaluation of the performance of each participant in that project with respect to safety and environmental protection; and

(2) recommendations concerning whether the applications of risk management demonstrated under the demonstration project should be incorporated into the Federal pipeline safety program under this chapter on a permanent basis.

(Added Pub. L. 104–304, § 5(a), Oct. 12, 1996, 110 Stat. 3798.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 60118 of this title.

§ 60127. Population encroachment

(a) LAND USE RECOMMENDATIONS.—The Secretary of Transportation shall make available to an appropriate official of each State, as determined by the Secretary, the land use recommendations of the special report numbered 219 of the Transportation Research Board, entitled ''Pipelines and Public Safety''.

(b) EVALUATION.—The Secretary shall—

(1) evaluate the recommendations in the report referred to in subsection (a);

(2) determine to what extent the recommendations are being implemented;

(3) consider ways to improve the implementation of the recommendations; and

(4) consider other initiatives to further improve awareness of local planning and zoning entities regarding issues involved with population encroachment in proximity to the rights-of-way of any interstate gas pipeline facility or interstate hazardous liquid pipeline facility.

(Added Pub. L. 104–304, § 16(a), Oct. 12, 1996, 110 Stat. 3803.)

§ 60128. Dumping within pipeline rights-of-way

(a) PROHIBITION.—No person shall excavate for the purpose of unauthorized disposal within the right-of-way of an interstate gas pipeline facility or interstate hazardous liquid pipeline facility, or any other limited area in the vicinity of any such interstate pipeline facility established by the Secretary of Transportation, and dispose solid waste therein.

(b) DEFINITION.—For purposes of this section, the term ''solid waste'' has the meaning given that term in section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

(Added Pub. L. 104–304, § 18(a), Oct. 12, 1996, 110 Stat. 3804.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 60123 of this title.

CHAPTER 603—USER FEES

Sec.
60301. User fees.

§ 60301. User fees

(a) SCHEDULE OF FEES.—The Secretary of Transportation shall prescribe a schedule of fees for all natural gas and hazardous liquids transported by pipelines subject to chapter 601 of this title. The fees shall be based on usage (in reasonable relationship to volume-miles, miles, revenues, or a combination of volume-miles, miles, and revenues) of the pipelines. The Secretary shall consider the allocation of resources of the Department of Transportation when establishing the schedule.

(b) IMPOSITION AND TIME OF COLLECTION.—A fee shall be imposed on each person operating a gas pipeline transmission facility, a liquefied natural gas pipeline facility, or a hazardous liquid

pipeline facility to which chapter 601 of this title applies. The fee shall be collected before the end of the fiscal year to which it applies.

(c) MEANS OF COLLECTION.—The Secretary shall prescribe procedures to collect fees under this section. The Secretary may use a department, agency, or instrumentality of the United States Government or of a State or local government to collect the fee and may reimburse the department, agency, or instrumentality a reasonable amount for its services.

(d) USE OF FEES.—A fee collected under this section—

(1)(A) related to a gas pipeline facility may be used only for an activity related to gas under chapter 601 of this title; and

(B) related to a hazardous liquid pipeline facility may be used only for an activity related to hazardous liquid under chapter 601 of this title; and

(2) may be used only to the extent provided in advance in an appropriation law.

(e) LIMITATIONS.—Fees prescribed under subsection (a) of this section shall be sufficient to pay for the costs of activities described in subsection (d) of this section. However, the total amount collected for a fiscal year may not be more than 105 percent of the total amount of the appropriations made for the fiscal year for activities to be financed by the fees.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1328.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60301(a)	49 App.:1682a(a)(1), (d) (words after ''subsection (a) of this section'' and before ''shall be sufficient'').	Apr. 7, 1986, Pub. L. 99–272, §7005, 100 Stat. 140.
60301(b)	49 App.:1682a(a)(3), (b).	
60301(c)	49 App.:1682a(a)(2).	
60301(d)	49 App.:1682a(c).	
60301(e)	49 App.:1682a(d) (less words after ''subsection (a) of this section'' and before ''shall be sufficient'').	

In this section, the word ''prescribe'' is substituted for ''establish'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a), the words ''(hereafter in this section referred to as the 'Secretary')'' and ''appropriate'' are omitted as surplus.

In subsection (b), the words ''after September 30, 1985'' are omitted as obsolete. The words ''imposed on each person'' are substituted for ''assessed to the persons'' for consistency in the revised title and with other titles of the Code. The words ''the jurisdiction of'' and ''assess and'' are omitted as surplus.

In subsection (c), the words ''the services of'' are omitted as surplus. The words ''department, agency, or instrumentality of the United States Government'' are substituted for ''Federal . . . agency or instrumentality'' for consistency in the revised title and with other titles of the Code.

In subsection (e), the words ''by the Secretary'' are omitted as surplus. The words ''beginning on October 1, 1985'' are omitted as executed.

STUDY AND REPORT ON USER FEE ASSESSMENT FACTORS

Pub. L. 104–304, §17, Oct. 12, 1996, 110 Stat. 3803, provided that:

''(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act [Oct. 12, 1996], the Secretary of Transportation shall transmit to the Congress a report analyzing the present assessment of pipeline safety user fees solely on the basis of mileage to determine whether—

''(1) that measure of the resources of the Department of Transportation is the most appropriate measure of the resources used by the Department of Transportation in the regulation of pipeline transportation; or

''(2) another basis of assessment would be a more appropriate measure of those resources.

''(b) CONSIDERATIONS.—In making the report, the Secretary shall consider a wide range of assessment factors and suggestions and comments from the public.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 60125 of this title.

CHAPTER 605—INTERSTATE COMMERCE REGULATION

Sec.
60501. Secretary of Energy.
60502. Federal Energy Regulatory Commission.
60503. Effect of enactment.

§ 60501. Secretary of Energy

Except as provided in section 60502 of this title, the Secretary of Energy has the duties and powers related to the transportation of oil by pipeline that were vested on October 1, 1977, in the Interstate Commerce Commission or the chairman or a member of the Commission.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1329.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60501	42:7155.	Aug. 4, 1977, Pub. L. 95–91, §306, 91 Stat. 581.
	49:101 (note prec.).	Oct. 17, 1978, Pub. L. 95–473, §4(c)(1)(A), (2) (related to §306 of Department of Energy Organization Act), 92 Stat. 1470.

The words ''duties and powers . . . that were vested . . . in'' are coextensive with, and substituted for, ''transferred . . . such functions set forth in the Interstate Commerce Act and vested by law in'' for clarity and to eliminate unnecessary words. The words ''on October 1, 1977'' are added to reflect the effective date of the transfer of the duties and powers to the Secretary of Energy.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7174.

§ 60502. Federal Energy Regulatory Commission

The Federal Energy Regulatory Commission has the duties and powers related to the estab-

lishment of a rate or charge for the transportation of oil by pipeline or the valuation of that pipeline that were vested on October 1, 1977, in the Interstate Commerce Commission or an officer or component of the Interstate Commerce Commission.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1329.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60502	42:7172(b). 49:101 (note prec.).	Aug. 4, 1977, Pub. L. 95–91, §402(b), 91 Stat. 584. Oct. 17, 1978, Pub. L. 95–473, §4(c)(1)(B), (2) (related to §402(b) of Department of Energy Organization Act), 92 Stat. 1470.

The words ''duties and powers . . . that were vested . . . in'' are coextensive with, and substituted for, ''transferred to, and vested in . . . all functions and authority of'' for clarity and to eliminate unnecessary words. The word ''regulatory'' is omitted as surplus. The words ''on October 1, 1977'' are added to reflect the effective date of the transfer of the duties and powers to the Federal Energy Regulatory Commission.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 60501 of this title; title 42 section 7174.

§ 60503. Effect of enactment

The enactment of the Act of October 17, 1978 (Public Law 95–473, 92 Stat. 1337), the Act of January 12, 1983 (Public Law 97–449, 96 Stat. 2413), and the Act enacting this section does not repeal, and has no substantive effect on, any right, obligation, liability, or remedy of an oil pipeline, including a right, obligation, liability, or remedy arising under the Interstate Commerce Act or the Act of August 29, 1916 (known as the Pomerene Bills of Lading Act), before any department, agency, or instrumentality of the United States Government, an officer or employee of the Government, or a court of competent jurisdiction.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1329.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
60503	49:101 (note prec.).	Oct. 31, 1988, Pub. L. 100–561, §308, 102 Stat. 2817.

The words ''the Act of January 12, 1983 (Public Law 97–449, 96 Stat. 2413), and the Act enacting this section'' are added for clarity. The words ''department, agency, or instrumentality of the United States Government'' are substituted for ''Federal department or agency'', and the words ''officer or employee'' are substituted for ''official'', for consistency in the revised title and with other titles of the United States Code.

REFERENCES IN TEXT

Act of October 17, 1978, referred to in text, is Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1337, the first section of which enacted subtitle IV of this title. For complete classification of this Act to the Code, see Tables.

Act of January 12, 1983, referred to in text, is Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2413, the first section of which enacted subtitles I and II of this title. For complete classification of this Act to the Code, see Tables.

The Act enacting this section, referred to in text, is Pub. L. 103–272, July 5, 1994, 108 Stat. 745, the first section of which enacted subtitles II, III, and V to X of this title. For complete classification of this Act to the Code, see Tables.

The Interstate Commerce Act, referred to in text, is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§1 et seq.), 8 (§301 et seq.), 12 (§901 et seq.), 13 (§1001 et seq.), and 19 (1231 et seq.) of former Title 49, Transportation. The Act was repealed by Pub. L. 95–473, §4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§10101 et seq.) of Title 49, Transportation. For disposition of sections of former Title 49, see Table at the beginning of Title 49.

Act of August 29, 1916, referred to in text, is act Aug. 29, 1916, ch. 415, 39 Stat. 538, as amended, known as the Pomerene Bills of Lading Act, which was classified generally to chapter 4 (§81 et seq.) of former Title 49, and was repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as chapter 801 of this title.

SUBTITLE IX—COMMERCIAL SPACE TRANSPORTATION

Chapter Sec.
701. Commercial Space Launch Activities 70101
703. Space Transportation Infrastructure Matching Grants 70301

CHAPTER 701—COMMERCIAL SPACE LAUNCH ACTIVITIES

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AMENDMENTS

1994—Pub. L. 103–429, §6(78), Oct. 31, 1994, 108 Stat. 4388, made technical amendment to chapter heading.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 15 section 5801.

§ 70101. Findings and purposes

(a) FINDINGS.—Congress finds that—

(1) the peaceful uses of outer space continue to be of great value and to offer benefits to all mankind;

(2) private applications of space technology have achieved a significant level of commercial and economic activity and offer the potential for growth in the future, particularly in the United States;

(3) new and innovative equipment and services are being sought, produced, and offered by entrepreneurs in telecommunications, information services, and remote sensing technologies;

(4) the private sector in the United States has the capability of developing and providing private satellite launching and associated services that would complement the launching and associated services now available from the United States Government;

(5) the development of commercial launch vehicles and associated services would enable the United States to retain its competitive position internationally, contributing to the national interest and economic well-being of the United States;

(6) providing launch services by the private sector is consistent with the national security and foreign policy interests of the United States and would be facilitated by stable, minimal, and appropriate regulatory guidelines that are fairly and expeditiously applied;

(7) the United States should encourage private sector launches and associated services and, only to the extent necessary, regulate those launches and services to ensure compliance with international obligations of the United States and to protect the public health and safety, safety of property, and national security and foreign policy interests of the United States;

(8) space transportation, including the establishment and operation of launch sites and complementary facilities, the providing of launch services, the establishment of support facilities, and the providing of support services, is an important element of the transportation system of the United States, and in connection with the commerce of the United States there is a need to develop a strong space transportation infrastructure with significant private sector involvement; and

(9) the participation of State governments in encouraging and facilitating private sector involvement in space-related activity, particularly through the establishment of a space transportation-related infrastructure, including launch sites, complementary facilities, and launch site support facilities, is in the national interest and is of significant public benefit.

(b) PURPOSES.—The purposes of this chapter are—

(1) to promote economic growth and entrepreneurial activity through use of the space environment for peaceful purposes;

(2) to encourage the United States private sector to provide launch vehicles and associated services by—

(A) simplifying and expediting the issuance and transfer of commercial launch licenses; and

(B) facilitating and encouraging the use of Government-developed space technology;

(3) to provide that the Secretary of Transportation is to oversee and coordinate the conduct of commercial launch operations, issue and transfer commercial launch licenses authorizing those operations, and protect the public health and safety, safety of property, and national security and foreign policy interests of the United States; and

(4) to facilitate the strengthening and expansion of the United States space transportation infrastructure, including the enhancement of United States launch sites and launch-site support facilities, with Government, State, and private sector involvement, to support the full range of United States space-related activities.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1330.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70101(a)	49 App.:2601.	Oct. 30, 1984, Pub. L. 98–575, §§2, 3, 98 Stat. 3055; Nov. 16, 1990, Pub. L. 101–611, §117(c), (d), 104 Stat. 3202.
70101(b)	49 App.:2602.	

In subsection (a), before clause (1), the words ''and declares'' are omitted as surplus.

In subsection (b), before clause (1), the word ''therefore'' is omitted as surplus.

§ 70102. Definitions

In this chapter—

(1) ''citizen of the United States'' means—

(A) an individual who is a citizen of the United States;

(B) an entity organized or existing under the laws of the United States or a State; or

(C) an entity organized or existing under the laws of a foreign country if the controlling interest (as defined by the Secretary of Transportation) is held by an individual or entity described in subclause (A) or (B) of this clause.

(2) ''executive agency'' has the same meaning given that term in section 105 of title 5.

(3) ''launch'' means to place or try to place a launch vehicle and any payload—

(A) in a suborbital trajectory;

(B) in Earth orbit in outer space; or

(C) otherwise in outer space.

(4) ''launch property'' means an item built for, or used in, the launch preparation or launch of a launch vehicle.

(5) ''launch services'' means—

(A) activities involved in the preparation of a launch vehicle and payload for launch; and

(B) the conduct of a launch.

(6) ''launch site'' means the location on Earth from which a launch takes place (as de-

fined in a license the Secretary issues or transfers under this chapter) and necessary facilities at that location.

(7) ''launch vehicle'' means—

(A) a vehicle built to operate in, or place a payload in, outer space; and

(B) a suborbital rocket.

(8) ''payload'' means an object that a person undertakes to place in outer space by means of a launch vehicle, including components of the vehicle specifically designed or adapted for that object.

(9) ''person'' means an individual and an entity organized or existing under the laws of a State or country.

(10) ''State'' means a State of the United States, the District of Columbia, and a territory or possession of the United States.

(11) ''third party'' means a person except—

(A) the United States Government or the Government's contractors or subcontractors involved in launch services;

(B) a licensee or transferee under this chapter;

(C) a licensee's or transferee's contractors, subcontractors, or customers involved in launch services; or

(D) the customer's contractors or subcontractors involved in launch services.

(12) ''United States'' means the States of the United States, the District of Columbia, and the territories and possessions of the United States.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1331; Pub. L. 104–287, § 5(92), Oct. 11, 1996, 110 Stat. 3398.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70102(1)	49 App.:2603(9).	Oct. 30, 1984, Pub. L. 98–575, § 4(1)–(9), 98 Stat. 3056.
	49 App.:2603(12).	Oct. 30, 1984, Pub. L. 98–575, § 4(12), 98 Stat. 3056; Nov. 15, 1988, Pub. L. 100–657, § 3(2), 102 Stat. 3900.
70102(2)–(9)	49 App.:2603(1)–(8).	
70102(10)	49 App.:2603(10).	Oct. 30, 1984, Pub. L. 98–575, § 4(10), 98 Stat. 3056; Nov. 15, 1988, Pub. L. 100–657, § 3(1), 102 Stat. 3900.
70102(11)	49 App.:2603(11).	Oct. 30, 1984, Pub. L. 98–575, 98 Stat. 3055, § 4(11); added Nov. 15, 1988, Pub. L. 100–657, § 3(3), 102 Stat. 3900.
70102(12)	49 App.:2603(10).	

In this chapter, the word ''country'' is substituted for ''nation'' for consistency in the revised title and with other titles of the United States Code.

In clause (1), before subclause (A), the text of 49 App.:2603(9) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section. In subclauses (B) and (C), the words ''corporation, partnership, joint venture, association, or other'' are omitted as surplus. In subclause (C), the words ''in regulations'' and ''in such entity'' are omitted as surplus.

In clause (4), the words ''propellants, launch vehicles and components thereof, and other physical'' are omitted as surplus.

In clause (6), the words ''includes all . . . located on a launch site which are . . . to conduct a launch'' are omitted as surplus.

In clause (9), the words ''corporation, partnership, joint venture, association, or other'' are omitted as surplus.

Clauses (10) and (12) are substituted for 49 App.:2603(10) to eliminate unnecessary words.

In clause (11), before subclause (A), the words ''or entity'' are omitted as surplus. In subclause (A), the words ''its agencies'' are omitted as surplus.

PUB. L. 104–287

This amends 49:70102(6) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1331).

AMENDMENTS

1996—Par. (6). Pub. L. 104–287 substituted ''facilities at that location'' for ''facilities''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 70104 of this title.

§ 70103. General authority

(a) GENERAL.—The Secretary of Transportation shall carry out this chapter.

(b) FACILITATING COMMERCIAL LAUNCHES.—In carrying out this chapter, the Secretary shall—

(1) encourage, facilitate, and promote commercial space launches by the private sector; and

(2) take actions to facilitate private sector involvement in commercial space transportation activity, and to promote public-private partnerships involving the United States Government, State governments, and the private sector to build, expand, modernize, or operate a space launch infrastructure.

(c) EXECUTIVE AGENCY ASSISTANCE.—When necessary, the head of an executive agency shall assist the Secretary in carrying out this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1332.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70103(a)	49 App.:2604(a) (1st–10th words).	Oct. 30, 1984, Pub. L. 98–575, § 5(a) (1st–10th words, (b)), 98 Stat. 3057.
70103(b)	49 App.:2604(a) (11th–15th words, cls. (1), (3)).	Oct. 30, 1984, Pub. L. 98–575, § 5(a) (11th–15th words, cls. (1), (3)), 98 Stat. 3057; Nov. 16, 1990, Pub. L. 101–611, § 117(e)(1), (3), 104 Stat. 3203.
70103(c)	49 App.:2604(b).	

In subsection (a), the words ''be responsible for'' are omitted as surplus.

In subsection (c), the words ''To the extent permitted by law'' are omitted as surplus. The words ''the head of an executive agency'' are substituted for ''Federal agencies'' for consistency in the revised title and with other titles of the United States Code.

§ 70104. Restrictions on launches and operations

(a) LICENSE REQUIREMENT.—A license issued or transferred under this chapter is required for the following:

(1) for a person to launch a launch vehicle or to operate a launch site in the United States.

(2) for a citizen of the United States (as defined in section 70102(1)(A) or (B) of this title)

to launch a launch vehicle or to operate a launch site outside the United States.

(3) for a citizen of the United States (as defined in section 70102(1)(C) of this title) to launch a launch vehicle or to operate a launch site outside the United States and outside the territory of a foreign country unless there is an agreement between the United States Government and the government of the foreign country providing that the government of the foreign country has jurisdiction over the launch or operation.

(4) for a citizen of the United States (as defined in section 70102(1)(C) of this title) to launch a launch vehicle or to operate a launch site in the territory of a foreign country if there is an agreement between the United States Government and the government of the foreign country providing that the United States Government has jurisdiction over the launch or operation.

(b) COMPLIANCE WITH PAYLOAD REQUIREMENTS.—The holder of a launch license under this chapter may launch a payload only if the payload complies with all requirements of the laws of the United States related to launching a payload.

(c) PREVENTING LAUNCHES.—The Secretary of Transportation shall establish whether all required licenses, authorizations, and permits required for a payload have been obtained. If no license, authorization, or permit is required, the Secretary may prevent the launch if the Secretary decides the launch would jeopardize the public health and safety, safety of property, or national security or foreign policy interest of the United States.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1332.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70104(a)	49 App.:2605(a).	Oct. 30, 1984, Pub. L. 98–575, §6(a), (b), 98 Stat. 3057.
70104(b)	49 App.:2605(b)(1) (1st sentence).	
70104(c)	49 App.:2605(b)(1) (last sentence), (2).	

In subsection (a)(2)–(4), the cross-reference is to section 70102(1) of the revised title (restating 49 App.:2603(12)) rather than to section 70102(11) (restating 49 App.:2603(11)) to correct a mistake. Section 3(2) of the Commercial Space Launch Act Amendments of 1988 (Public Law 100–657, 102 Stat. 3900) redesignated 49 App.:2603(11) as 49 App.:2603(12) but did not amend the cross-reference in 49 App.:2605(a).

In subsection (a)(3) and (4), the words ''the government of'' are added for consistency in the revised title and with other titles of the United States Code. The words ''in force'' are omitted as surplus.

In subsection (a)(3), the words ''at any place which is both'' are omitted as surplus.

In subsection (a)(4), the text of 49 App.:2605(a)(3)(B)(i) is omitted as surplus.

In subsection (c), the words ''by Federal law'', ''which is to be launched'', ''by any Federal law'', ''take such action under this chapter as the Secretary deems necessary to'', and ''of a payload by a holder of a launch license under this chapter'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70106, 70110 of this title.

§ 70105. License applications and requirements

(a) APPLICATIONS.—A person may apply to the Secretary of Transportation for a license or transfer of a license under this chapter in the form and way the Secretary prescribes. Consistent with the public health and safety, safety of property, and national security and foreign policy interests of the United States, the Secretary, not later than 180 days after receiving an application, shall issue or transfer a license if the Secretary decides in writing that the applicant complies, and will continue to comply, with this chapter and regulations prescribed under this chapter. The Secretary shall inform the applicant of any pending issue and action required to resolve the issue if the Secretary has not made a decision not later than 120 days after receiving an application.

(b) REQUIREMENTS.—(1) Except as provided in this subsection, all requirements of the laws of the United States applicable to the launch of a launch vehicle or the operation of a launch site are requirements for a license under this chapter.

(2) The Secretary may prescribe—

(A) any term necessary to ensure compliance with this chapter, including on-site verification that a launch or operation complies with representations stated in the application;

(B) an additional requirement necessary to protect the public health and safety, safety of property, national security interests, and foreign policy interests of the United States; and

(C) by regulation that a requirement of a law of the United States not be a requirement for a license if the Secretary, after consulting with the head of the appropriate executive agency, decides that the requirement is not necessary to protect the public health and safety, safety of property, and national security and foreign policy interests of the United States.

(3) The Secretary may waive a requirement for an individual applicant if the Secretary decides that the waiver is in the public interest and will not jeopardize the public health and safety, safety of property, and national security and foreign policy interests of the United States.

(c) PROCEDURES AND TIMETABLES.—The Secretary shall establish procedures and timetables that expedite review of a license application and reduce the regulatory burden for an applicant.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1333.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70105(a)	49 App.:2606 (1st sentence).	Oct. 30, 1984, Pub. L. 98–575, §§7 (1st sentence), 8, 9(a), (b), 98 Stat. 3058.
	49 App.:2608(a) (1st sentence), (b) (1st, 3d, last sentences).	
70105(b)(1) ..	49 App.:2607(a)(1).	
70105(b)(2)(A).	49 App.:2608(b) (2d sentence).	
70105(b)(2)(B).	49 App.:2607(b).	
70105(b)(2)(C).	49 App.:2607(a)(2).	
70105(b)(3) ..	49 App.:2607(c).	
70105(c)	49 App.:2608(a) (last sentence).	

In subsection (a), the words ''for launching one or more launch vehicles or for operating one or more launch sites, or both'' in 49 App.:2606 are omitted as surplus.

In subsection (b)(2)(C), the words ''that would otherwise apply to the launch of a launch vehicle or the operation of a launch site'' are omitted as surplus. The words ''the head of'' are added for consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 70110 of this title.

§ 70106. Monitoring activities

(a) GENERAL REQUIREMENTS.—A licensee under this chapter must allow the Secretary of Transportation to place an officer or employee of the United States Government or another individual as an observer at a launch site the licensee uses, at a production facility or assembly site a contractor of the licensee uses to produce or assemble a launch vehicle, or at a site at which a payload is integrated with a launch vehicle. The observer will monitor the activity of the licensee or contractor at the time and to the extent the Secretary considers reasonable to ensure compliance with the license or to carry out the duties of the Secretary under section 70104(c) of this title. A licensee must cooperate with an observer carrying out this subsection.

(b) CONTRACTS.—To the extent provided in advance in an appropriation law, the Secretary may make a contract with a person to carry out subsection (a) of this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1334.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70106(a)	49 App.:2613(a).	Oct. 30, 1984, Pub. L. 98–575, §14, 98 Stat. 3060.
70106(b)	49 App.:2613(b).	

In subsection (a), the word ''duties'' is substituted for ''responsibilities'' for consistency in the revised title and with other titles of the United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 70114 of this title.

§ 70107. Effective periods, and modifications, suspensions, and revocations, of licenses

(a) EFFECTIVE PERIODS OF LICENSES.—The Secretary of Transportation shall specify the period for which a license issued or transferred under this chapter is in effect.

(b) MODIFICATIONS.—On the initiative of the Secretary or on application of the licensee, the Secretary may modify a license issued or transferred under this chapter if the Secretary decides the modification will comply with this chapter.

(c) SUSPENSIONS AND REVOCATIONS.—The Secretary may suspend or revoke a license if the Secretary decides that—

(1) the licensee has not complied substantially with a requirement of this chapter or a regulation prescribed under this chapter; or

(2) the suspension or revocation is necessary to protect the public health and safety, the safety of property, or a national security or foreign policy interest of the United States.

(d) EFFECTIVE PERIODS OF MODIFICATIONS, SUSPENSIONS, AND REVOCATIONS.—Unless the Secretary specifies otherwise, a modification, suspension, or revocation under this section takes effect immediately and remains in effect during a review under section 70110 of this title.

(e) NOTIFICATION.—The Secretary shall notify the licensee in writing of the decision of the Secretary under this section and any action the Secretary takes or proposes to take based on the decision.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1334.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70107(a)	49 App.:2606 (last sentence).	Oct. 30, 1984, Pub. L. 98–575, §§7 (last sentence), 10, 98 Stat. 3058, 3059.
70107(b)	49 App.:2609(b).	
70107(c)	49 App.:2609(a).	
70107(d)	49 App.:2609(c).	
70107(e)	49 App.:2609(d).	

In subsection (a), the words ''of time'' and ''in accordance with regulations issued under this chapter'' are omitted as surplus.

In subsection (b), the words ''the requirements of'' are omitted as surplus.

In subsection (e), the words ''Whenever the Secretary takes any action'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 70110 of this title.

§ 70108. Prohibition, suspension, and end of launches and operation of launch sites

(a) GENERAL AUTHORITY.—The Secretary of Transportation may prohibit, suspend, or end immediately the launch of a launch vehicle or the operation of a launch site licensed under this chapter if the Secretary decides the launch or operation is detrimental to the public health and safety, the safety of property, or a national security or foreign policy interest of the United States.

(b) EFFECTIVE PERIODS OF ORDERS.—An order under this section takes effect immediately and remains in effect during a review under section 70110 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1334.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70108(a)	49 App.:2610(a).	Oct. 30, 1984, Pub. L. 98–575, §11, 98 Stat. 3059.
70108(b)	49 App.:2610(b).	

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 70110 of this title.

§ 70109. Preemption of scheduled launches

(a) GENERAL.—With the cooperation of the Secretary of Defense and the Administrator of

the National Aeronautics and Space Administration, the Secretary of Transportation shall act to ensure that a launch of a payload is not preempted from access to a United States Government launch site or launch property, except for imperative national need, when a launch date commitment from the Government has been obtained for a launch licensed under this chapter. A licensee or transferee preempted from access to a launch site or launch property does not have to pay the Government any amount for launch services attributable only to the scheduled launch prevented by the preemption.

(b) IMPERATIVE NATIONAL NEED DECISIONS.—In consultation with the Secretary of Transportation, the Secretary of Defense or the Administrator shall decide when an imperative national need requires preemption under subsection (a) of this section. That decision may not be delegated.

(c) REPORTS.—In cooperation with the Secretary of Transportation, the Secretary of Defense or the Administrator, as appropriate, shall submit to Congress not later than 7 days after a decision to preempt under subsection (a) of this section, a report that includes an explanation of the circumstances justifying the decision and a schedule for ensuring the prompt launching of a preempted payload.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1335.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70109(a)	49 App.:2614(b)(4)(A) (1st, last sentences).	Oct. 30, 1984, Pub. L. 98–575, 98 Stat. 3055, §15(b)(4); added Nov. 15, 1988, Pub. L. 100–657, §7, 102 Stat. 3906.
70109(b)	49 App.:2614(b)(4)(A) (2d sentence).	
70109(c)	49 App.:2614(b)(4)(B).	

§ 70110. Administrative hearings and judicial review

(a) ADMINISTRATIVE HEARINGS.—The Secretary of Transportation shall provide an opportunity for a hearing on the record to—

(1) an applicant under this chapter, for a decision of the Secretary under section 70105(a) of this title to issue or transfer a license with terms or deny the issuance or transfer of a license;

(2) an owner or operator of a payload under this chapter, for a decision of the Secretary under section 70104(c) of this title to prevent the launch of the payload; and

(3) a licensee under this chapter, for a decision of the Secretary under—

(A) section 70107(b) or (c) of this title to modify, suspend, or revoke a license; or

(B) section 70108(a) of this title to prohibit, suspend, or end a launch or operation of a launch site licensed by the Secretary.

(b) JUDICIAL REVIEW.—A final action of the Secretary under this chapter is subject to judicial review as provided in chapter 7 of title 5.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1335.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70110(a)(1) ..	49 App.:2611(a)(1) (1st sentence).	Oct. 30, 1984, Pub. L. 98–575, §12, 98 Stat. 3060.
70110(a)(2) ..	49 App.:2611(a)(1) (last sentence).	
70110(a)(3) ..	49 App.:2611(a)(2).	
70110(b)	49 App.:2611(b).	

In subsection (a), before clause (1), the words ''The Secretary of Transportation shall provide an opportunity for a hearing on the record to'' are substituted for ''shall be entitled to a determination on the record after an opportunity for a hearing'' for consistency in the revised title. The words ''in accordance with section 554 of title 5'' are omitted for consistency and because 5:554 applies to a hearing on the record unless otherwise stated. In clause (1), the words ''and a proposed transferee of a license'' are omitted as being included in ''applicant''.

In subsection (b), the words ''to issue, transfer, deny the issuance or transfer of, suspend, revoke, or modify a license or to terminate, prohibit, or suspend any launch or operation of a launch site licensed by the Secretary or to prevent the launch of a payload'' are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 70107, 70108 of this title.

§ 70111. Acquiring United States Government property and services

(a) GENERAL REQUIREMENTS AND CONSIDERATIONS.—(1) The Secretary of Transportation shall facilitate and encourage the acquisition by the private sector and State governments of—

(A) launch property of the United States Government that is excess or otherwise is not needed for public use; and

(B) launch services, including utilities, of the Government otherwise not needed for public use.

(2) In acting under paragraph (1) of this subsection, the Secretary shall consider the commercial availability on reasonable terms of substantially equivalent launch property or launch services from a domestic source.

(b) PRICE.—(1) In this subsection, ''direct costs'' means the actual costs that—

(A) can be associated unambiguously with a commercial launch effort; and

(B) the Government would not incur if there were no commercial launch effort.

(2) In consultation with the Secretary, the head of the executive agency providing the property or service under subsection (a) of this section shall establish the price for the property or service. The price for—

(A) acquiring launch property by sale or transaction instead of sale is the fair market value;

(B) acquiring launch property (except by sale or transaction instead of sale) is an amount equal to the direct costs, including specific wear and tear and property damage, the Government incurred because of acquisition of the property; and

(C) launch services is an amount equal to the direct costs, including the basic pay of Government civilian and contractor personnel, the Government incurred because of acquisition of the services.

(c) COLLECTION BY SECRETARY.—The Secretary may collect a payment under this section with the consent of the head of the executive agency establishing the price. Amounts collected under this subsection shall be deposited in the Treasury. Amounts (except for excess launch property) shall be credited to the appropriation from which the cost of providing the property or services was paid.

(d) COLLECTION BY OTHER GOVERNMENTAL HEADS.—The head of a department, agency, or instrumentality of the Government may collect a payment for an activity involved in producing a launch vehicle or its payload for launch if the activity was agreed to by the owner or manufacturer of the launch vehicle or payload.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1335.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70111(a)	49 App.:2614(a).	Oct. 30, 1984, Pub. L. 98–575, §15(a), 98 Stat. 3060; Nov. 15, 1988, Pub. L. 100–657, §4(a), 102 Stat. 3900; Nov. 16, 1990, Pub. L. 101–611, §117(b), 104 Stat. 3202.
70111(b)	49 App.:2614(b)(1).	Oct. 30, 1984, Pub. L. 98–575, §15(b)(1), 98 Stat. 3061; Nov. 15, 1988, Pub. L. 100–657, §4(b), 102 Stat. 3901.
70111(c)	49 App.:2614(b)(2), (3).	Oct. 30, 1984, Pub. L. 98–575, §15(b)(2), (3), 98 Stat. 3061.
70111(d)	49 App.:2614(d).	Oct. 30, 1984, Pub. L. 98–575, 98 Stat. 3055, §15(d); added Nov. 15, 1988, Pub. L. 100–657, §4(c), 102 Stat. 3901.

In subsection (a)(1), before clause (A), the words ''take such actions as may be necessary to'' and ''(by lease, sale, transaction in lieu of sale, or otherwise)'' are omitted as surplus.

In subsections (b)(2) and (c), the words ''the head of'' are added for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(2), before clause (A), the word ''price'' is substituted for ''amount to be paid to the United States'' and ''the amount of such payment'' to eliminate unnecessary words. The words ''by any person who acquires launch property or launch services, including utilities'' are omitted as surplus. In clause (C), the words ''including utilities'' are omitted as surplus. The words ''basic pay'' are substituted for ''salaries'' for clarity.

In subsection (c), the word ''collected'' is substituted for ''received'' for consistency in this section. The words ''by the United States for launch property or launch services, including utilities'' and ''the general fund of'' are omitted as surplus.

In subsection (d), the words ''department, agency, or instrumentality of the Government'' are substituted for ''Federal agency or department'' for consistency in the revised title and with other titles of the Code.

§ 70112. Liability insurance and financial responsibility requirements

(a) GENERAL REQUIREMENTS.—(1) When a license is issued or transferred under this chapter, the licensee or transferee shall obtain liability insurance or demonstrate financial responsibility in amounts to compensate for the maximum probable loss from claims by—

(A) a third party for death, bodily injury, or property damage or loss resulting from an activity carried out under the license; and

(B) the United States Government against a person for damage or loss to Government property resulting from an activity carried out under the license.

(2) The Secretary of Transportation shall determine the amounts required under paragraph (1)(A) and (B) of this subsection, after consulting with the Administrator of the National Aeronautics and Space Administration, the Secretary of the Air Force, and the heads of other appropriate executive agencies.

(3) For the total claims related to one launch, a licensee or transferee is not required to obtain insurance or demonstrate financial responsibility of more than—

(A)(i) $500,000,000 under paragraph (1)(A) of this subsection; or

(ii) $100,000,000 under paragraph (1)(B) of this subsection; or

(B) the maximum liability insurance available on the world market at reasonable cost if the amount is less than the applicable amount in clause (A)(i) or (ii) of this paragraph.

(4) An insurance policy or demonstration of financial responsibility under this subsection shall protect the following, to the extent of their potential liability for involvement in launch services, at no cost to the Government:

(A) the Government.

(B) executive agencies and personnel, contractors, and subcontractors of the Government.

(C) contractors, subcontractors, and customers of the licensee or transferee.

(D) contractors and subcontractors of the customer.

(b) RECIPROCAL WAIVER OF CLAIMS.—(1) A license issued or transferred under this chapter shall contain a provision requiring the licensee or transferee to make a reciprocal waiver of claims with its contractors, subcontractors, and customers, and contractors and subcontractors of the customers, involved in launch services under which each party to the waiver agrees to be responsible for property damage or loss it sustains, or for personal injury to, death of, or property damage or loss sustained by its own employees resulting from an activity carried out under the license.

(2) The Secretary of Transportation shall make, for the Government, executive agencies of the Government involved in launch services, and contractors and subcontractors involved in launch services, a reciprocal waiver of claims with the licensee or transferee, contractors, subcontractors, and customers of the licensee or transferee, and contractors and subcontractors of the customers, involved in launch services under which each party to the waiver agrees to be responsible for property damage or loss it sustains, or for personal injury to, death of, or property damage or loss sustained by its own employees resulting from an activity carried out under the license. The waiver applies only to the extent that claims are more than the amount of insurance or demonstration of financial responsibility required under subsection (a)(1)(B) of this section. After consulting with the Administrator and the Secretary of the Air Force, the Secretary of Transportation may waive, for the Government and a department, agency, and instrumentality of the Government, the right to

recover damages for damage or loss to Government property to the extent insurance is not available because of a policy exclusion the Secretary of Transportation decides is usual for the type of insurance involved.

(c) DETERMINATION OF MAXIMUM PROBABLE LOSSES.—The Secretary of Transportation shall determine the maximum probable losses under subsection (a)(1)(A) and (B) of this section associated with an activity under a license not later than 90 days after a licensee or transferee requires a determination and submits all information the Secretary requires. The Secretary shall amend the determination as warranted by new information.

(d) ANNUAL REPORT.—(1) Not later than November 15 of each year, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a report on current determinations made under subsection (c) of this section related to all issued licenses and the reasons for the determinations.

(2) Not later than May 15 of each year, the Secretary of Transportation shall review the amounts specified in subsection (a)(3)(A) of this section and submit a report to Congress that contains proposed adjustments in the amounts to conform with changed liability expectations and availability of insurance on the world market. The proposed adjustment takes effect 30 days after a report is submitted.

(e) LAUNCHES INVOLVING GOVERNMENT FACILITIES AND PERSONNEL.—The Secretary of Transportation shall establish requirements consistent with this chapter for proof of financial responsibility and other assurances necessary to protect the Government and its executive agencies and personnel from liability, death, bodily injury, or property damage or loss as a result of a launch or operation of a launch site involving a facility or personnel of the Government. The Secretary may not relieve the Government of liability under this subsection for death, bodily injury, or property damage or loss resulting from the willful misconduct of the Government or its agents.

(f) COLLECTION AND CREDITING PAYMENTS.—The head of a department, agency, or instrumentality of the Government shall collect a payment owed for damage or loss to Government property under its jurisdiction or control resulting from an activity carried out under a license issued or transferred under this chapter. The payment shall be credited to the current applicable appropriation, fund, or account of the department, agency, or instrumentality.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1336; Pub. L. 104–287, § 5(74), (93), Oct. 11, 1996, 110 Stat. 3396, 3398.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70112(a)(1), (2).	49 App.:2615(a)(1)(A) (1st sentence), (B) (1st sentence).	Oct. 30, 1984, Pub. L. 98–575, § 16(a), (c), 98 Stat. 3061; restated Nov. 15, 1988, Pub. L. 100–657, § 5(a), 102 Stat. 3901, 3905.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70112(a)(3) ..	49 App.:2615(a)(1)(A) (last sentence), (B) (last sentence).	
70112(a)(4) ..	49 App.:2615(a)(2).	
70112(b)(1) ..	49 App.:2615(a)(1)(C).	
70112(b)(2) ..	49 App.:2615(a)(1)(D).	
70112(c)	49 App.:2615(a)(3) (1st, 2d sentences).	
70112(d)(1) ..	49 App.:2615(a)(3) (last sentence).	
70112(d)(2) ..	49 App.:2615(a)(4).	
70112(e)	49 App.:2614(c).	Oct. 30, 1984, Pub. L. 98–575, § 15(c), 98 Stat. 3061; restated Nov. 15, 1988, Pub. L. 100–657, § 5(b), 102 Stat. 3905.
70112(f)	49 App.:2615(c).	

In subsection (a), the word ''particular'' is omitted as surplus.

In subsection (a)(1), before clause (A), the word ''sufficient'' is omitted as surplus. In clauses (A) and (B), the words ''in connection with any particular launch'' are omitted as surplus.

In subsection (a)(4), before clause (A), the words ''made . . . a requirement described in'' are omitted as surplus.

In subsection (b)(2), the words ''department, agency, and instrumentality of the Government'' are substituted for ''Federal agency'' for consistency in the revised title and with other titles of the United States Code.

In subsection (d)(2), the words ''if appropriate'' are omitted as surplus.

In subsection (f), the words ''department, agency, or instrumentality of the Government'' are substituted for ''Federal agency or department'' for consistency in the revised title and with other titles of the Code. The words ''insurance proceeds or . . . other'' and ''proceeds or other'' are omitted as surplus.

PUB. L. 104–287, § 5(93)

This amends 49:70112(a)(3)(B) to clarify a cross-reference in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1337).

AMENDMENTS

1996—Subsec. (a)(3)(B). Pub. L. 104–287, § 5(93), substituted ''clause (A)(i) or (ii)'' for ''clause (A)''.

Subsec. (d)(1). Pub. L. 104–287, § 5(74), substituted ''Committee on Science'' for ''Committee on Science, Space, and Technology''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 5(93) of Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 70113 of this title.

§ 70113. Paying claims exceeding liability insurance and financial responsibility requirements

(a) GENERAL REQUIREMENTS.—(1) To the extent provided in advance in an appropriation law or to the extent additional legislative authority is enacted providing for paying claims in a compensation plan submitted under subsection (d) of this section, the Secretary of Transportation shall provide for the payment by the United States Government of a successful claim (including reasonable litigation or settlement expenses) of a third party against a licensee or

transferee under this chapter, a contractor, subcontractor, or customer of the licensee or transferee, or a contractor or subcontractor of a customer, resulting from an activity carried out under the license issued or transferred under this chapter for death, bodily injury, or property damage or loss resulting from an activity carried out under the license. However, claims may be paid under this section only to the extent the total amount of successful claims related to one launch—

(A) is more than the amount of insurance or demonstration of financial responsibility required under section 70112(a)(1)(A) of this title; and

(B) is not more than $1,500,000,000 (plus additional amounts necessary to reflect inflation occurring after January 1, 1989) above that insurance or financial responsibility amount.

(2) The Secretary may not provide for paying a part of a claim for which death, bodily injury, or property damage or loss results from willful misconduct by the licensee or transferee. To the extent insurance required under section 70112(a)(1)(A) of this title is not available to cover a successful third party liability claim because of an insurance policy exclusion the Secretary decides is usual for the type of insurance involved, the Secretary may provide for paying the excluded claims without regard to the limitation contained in section 70112(a)(1).

(b) NOTICE, PARTICIPATION, AND APPROVAL.—Before a payment under subsection (a) of this section is made—

(1) notice must be given to the Government of a claim, or a civil action related to the claim, against a party described in subsection (a)(1) of this section for death, bodily injury, or property damage or loss;

(2) the Government must be given an opportunity to participate or assist in the defense of the claim or action; and

(3) the Secretary must approve any part of a settlement to be paid out of appropriations of the Government.

(c) WITHHOLDING PAYMENTS.—The Secretary may withhold a payment under subsection (a) of this section if the Secretary certifies that the amount is not reasonable. However, the Secretary shall deem to be reasonable the amount of a claim finally decided by a court of competent jurisdiction.

(d) SURVEYS, REPORTS, AND COMPENSATION PLANS.—(1) If as a result of an activity carried out under a license issued or transferred under this chapter the total of claims related to one launch is likely to be more than the amount of required insurance or demonstration of financial responsibility, the Secretary shall—

(A) survey the causes and extent of damage; and

(B) submit expeditiously to Congress a report on the results of the survey.

(2) Not later than 90 days after a court determination indicates that the liability for the total of claims related to one launch may be more than the required amount of insurance or demonstration of financial responsibility, the President, on the recommendation of the Secretary, shall submit to Congress a compensation plan that—

(A) outlines the total dollar value of the claims;

(B) recommends sources of amounts to pay for the claims;

(C) includes legislative language required to carry out the plan if additional legislative authority is required; and

(D) for a single event or incident, may not be for more than $1,500,000,000.

(3) A compensation plan submitted to Congress under paragraph (2) of this subsection shall—

(A) have an identification number; and

(B) be submitted to the Senate and the House of Representatives on the same day and when the Senate and House are in session.

(e) CONGRESSIONAL RESOLUTIONS.—(1) In this subsection, ''resolution''—

(A) means a joint resolution of Congress the matter after the resolving clause of which is as follows: ''That the Congress approves the compensation plan numbered _____ submitted to the Congress on _____ ____, 19____.'', with the blank spaces being filled appropriately; but

(B) does not include a resolution that includes more than one compensation plan.

(2) The Senate shall consider under this subsection a compensation plan requiring additional appropriations or legislative authority not later than 60 calendar days of continuous session of Congress after the date on which the plan is submitted to Congress.

(3) A resolution introduced in the Senate shall be referred immediately to a committee by the President of the Senate. All resolutions related to the same plan shall be referred to the same committee.

(4)(A) If the committee of the Senate to which a resolution has been referred does not report the resolution within 20 calendar days after it is referred, a motion is in order to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of the plan.

(B) A motion to discharge may be made only by an individual favoring the resolution and is highly privileged (except that the motion may not be made after the committee has reported a resolution on the plan). Debate on the motion is limited to one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order. A motion to reconsider the vote by which the motion is agreed to or disagreed to is not in order.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed and another motion to discharge the committee from another resolution on the same plan may not be made.

(5)(A) After a committee of the Senate reports, or is discharged from further consideration of, a resolution, a motion to proceed to the consideration of the resolution is in order at any time, even though a similar previous motion has been disagreed to. The motion is highly privileged and is not debatable. An amendment to the motion is not in order. A motion to reconsider the vote by which the motion is agreed to or disagreed to is not in order.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph is limited to not more than 10 hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(6) The following shall be decided in the Senate without debate:

(A) a motion to postpone related to the discharge from committee.

(B) a motion to postpone consideration of a resolution.

(C) a motion to proceed to the consideration of other business.

(D) an appeal from a decision of the chair related to the application of the rules of the Senate to the procedures related to a resolution.

(f) APPLICATION.—This section applies to a license issued or transferred under this chapter for which the Secretary receives a complete and valid application not later than December 31, 1999.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1338; Pub. L. 104–287, § 5(94), Oct. 11, 1996, 110 Stat. 3398.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70113(a)	49 App.:2615(b)(1).	Oct. 30, 1984, Pub. L. 98–575, § 16(b)(1)–(4), 98 Stat. 3061; restated Nov. 15, 1988, Pub. L. 100–657, § 5(a), 102 Stat. 3903.
70113(b)	49 App.:2615(b)(2).	
70113(c)	49 App.:2615(b)(3).	
70113(d)(1) ..	49 App.:2615(b)(4)(A).	
70113(d)(2) ..	49 App.:2615(b)(4)(B).	
70113(d)(3) ..	49 App.:2615(b)(4)(C).	
70113(e)(1) ..	49 App.:2615(b)(4)(D)(i), (iii).	
70113(e)(2) ..	49 App.:2615(b)(4)(D)(ii).	
70113(e)(3) ..	49 App.:2615(b)(4)(D)(iv).	
70113(e)(4) ..	49 App.:2615(b)(4)(D)(v).	
70113(e)(5) ..	49 App.:2615(b)(4)(D)(vi).	
70113(e)(6) ..	49 App.:2615(b)(4)(D)(vii).	
70113(f)	49 App.:2615(b)(5).	Oct. 30, 1984, Pub. L. 98–575, § 16(b)(5), 98 Stat. 3061; restated Nov. 15, 1988, Pub. L. 100–657, § 5(a), 102 Stat. 3903; Nov. 4, 1992, Pub. L. 102–588, § 503, 106 Stat. 5124.

In subsection (a)(1), before clause (A), the word ''particular'' is omitted as surplus. In clause (B), the words ''the level that is'' are omitted as surplus.

In subsection (b)(1), the words ''civil action'' are substituted for ''suit'' for consistency in the revised title and with other titles of the United States Code and rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (b)(2), the words ''the Government must be given an opportunity'' are substituted for ''by the United States, at its election'' for clarity.

In subsection (c), the words ''just and'' and ''judgment'' are omitted as surplus.

In subsection (d), the word ''particular'' is omitted as surplus.

In subsection (d)(2), before clause (A), the words ''or plans'' are omitted because of 1:1.

In subsection (e)(1), before clause (A), the text of 49 App.:2615(b)(4)(D)(i) is omitted as surplus. In clause (A), the word ''only'' is omitted as surplus. The word ''Congress'' is substituted for ''the first blank space therein being filled with the name of the resolving House'' to correct an error in the law.

In subsection (e)(3), the words ''once introduced with respect to a compensation plan'' are omitted as surplus.

In subsection (e)(4)(A), the word ''either'' is omitted as surplus.

In subsection (f), the word ''only'' is omitted as surplus.

PUB. L. 104–287

This amends 49:70113(e)(6)(D) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1340).

AMENDMENTS

1996—Subsec. (e)(6)(D). Pub. L. 104–287 substituted ''related to a resolution'' for ''related to resolution''.

§ 70114. Disclosing information

The Secretary of Transportation, an officer or employee of the United States Government, or a person making a contract with the Secretary under section 70106(b) of this title may disclose information under this chapter that qualifies for an exemption under section 552(b)(4) of title 5 or is designated as confidential by the person or head of the executive agency providing the information only if the Secretary decides withholding the information is contrary to the public or national interest.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1340.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70114	49 App.:2608(c).	Oct. 30, 1984, Pub. L. 98–575, § 9(c), 98 Stat. 3059.

The words ''data or'' are omitted as surplus. The words ''the head of'' and ''executive'' are added for consistency in the revised title and with other titles of the United States Code.

§ 70115. Enforcement and penalty

(a) PROHIBITIONS.—A person may not violate this chapter, a regulation prescribed under this chapter, or any term of a license issued or transferred under this chapter.

(b) GENERAL AUTHORITY.—(1) In carrying out this chapter, the Secretary of Transportation may—

(A) conduct investigations and inquiries;

(B) administer oaths;

(C) take affidavits; and

(D) under lawful process—

(i) enter at a reasonable time a launch site, production facility, assembly site of a launch vehicle, or site at which a payload is integrated with a launch vehicle to inspect an object to which this chapter applies or a record or report the Secretary requires be made or kept under this chapter; and

(ii) seize the object, record, or report when there is probable cause to believe the object, record, or report was used, is being used, or likely will be used in violation of this chapter.

(2) The Secretary may delegate a duty or power under this chapter related to enforcement to an officer or employee of another executive agency with the consent of the head of the agency.

(c) CIVIL PENALTY.—(1) After notice and an opportunity for a hearing on the record, a person the Secretary finds to have violated subsection (a) of this section is liable to the United States Government for a civil penalty of not more than $100,000. A separate violation occurs for each day the violation continues.

(2) In conducting a hearing under paragraph (1) of this subsection, the Secretary may—

(A) subpena witnesses and records; and

(B) enforce a subpena in an appropriate district court of the United States.

(3) The Secretary shall impose the civil penalty by written notice. The Secretary may compromise or remit a penalty imposed, or that may be imposed, under this section.

(4) The Secretary shall recover a civil penalty not paid after the penalty is final or after a court enters a final judgment for the Secretary.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1341.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70115(a)	49 App.:2617.	Oct. 30, 1984, Pub. L. 98–575, §§17–19, 98 Stat. 3061.
70115(b)(1) ..	49 App.:2616(b).	
70115(b)(2) ..	49 App.:2616(a).	
70115(c)(1) ..	49 App.:2618(a) (1st, 2d sentences).	
70115(c)(2) ..	49 App.:2618(c).	
70115(c)(3) ..	49 App.:2618(a) (3d, last sentences).	
70115(c)(4) ..	49 App.:2618(b).	

In subsection (a), the words ''a requirement of'' are omitted as surplus. The word ''prescribed'' is substituted for ''issued'' for consistency in the revised title and with other titles of the United States Code. The words ''condition, or restriction'' are omitted as surplus.

In subsection (b)(1)(A)–(C), the words ''concerning any matter relating to enforcement of this chapter'' are omitted as surplus.

In subsection (b)(1)(B) and (C), the words ''from any person'' are omitted as surplus.

In subsection (b)(1)(B), the word ''affirmation'' is omitted because of 1:1.

In subsection (b)(2), the text of 49 App.:2616(a) (1st sentence) is omitted as surplus because the Secretary of Transportation enforces programs the Secretary carries out unless otherwise provided. The words ''the exercise of'' are omitted as surplus. The words ''duty or power'' are substituted for ''authority'' for consistency in the revised title and with other titles of the Code. The words ''to any officer or employee of the Department of Transportation'' are omitted as surplus because of 49:322(b).

In subsection (c)(1), the words ''in accordance with section 554 of title 5'' are omitted for consistency in the revised title and because 5:554 applies to a hearing on the record unless otherwise stated. The words ''for each violation'' are omitted as surplus.

In subsection (c)(2), the words ''relevant papers, books, documents, and other'' are omitted as surplus. The words ''(3) administer oaths and affirmatives'' are omitted as surplus because of subsection (b)(1)(B) of this section.

In subsection (c)(3), the word ''impose'' is substituted for ''assessed'' for consistency in the revised title and with other titles of the Code. The words ''amount of such'' and ''modify . . . with or without conditions'' are omitted as surplus.

Subsection (c)(4) is substituted for 49 App.:2618(b) to eliminate unnecessary words.

§ 70116. Consultation

(a) MATTERS AFFECTING NATIONAL SECURITY.—The Secretary of Transportation shall consult with the Secretary of Defense on a matter under this chapter affecting national security. The Secretary of Defense shall identify and notify the Secretary of Transportation of a national security interest relevant to an activity under this chapter.

(b) MATTERS AFFECTING FOREIGN POLICY.—The Secretary of Transportation shall consult with the Secretary of State on a matter under this chapter affecting foreign policy. The Secretary of State shall identify and notify the Secretary of Transportation of a foreign policy interest or obligation relevant to an activity under this chapter.

(c) OTHER MATTERS.—In carrying out this chapter, the Secretary of Transportation shall consult with the head of another executive agency—

(1) to provide consistent application of licensing requirements under this chapter;

(2) to ensure fair treatment for all license applicants; and

(3) when appropriate.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1341.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70116(a)	49 App.:2619(a).	Oct. 30, 1984, Pub. L. 98–575, §20, 98 Stat. 3062.
70116(b)	49 App.:2619(b).	
70116(c)	49 App.:2604(a)(2).	Oct. 30, 1984, Pub. L. 98–575, §5(a)(2), 98 Stat. 3057; Nov. 16, 1990, Pub. L. 101–611, §117(e)(2), 104 Stat. 3203.
	49 App.:2619(c).	

In subsections (a) and (b), the words ''including the issuance or transfer of each license'' and ''be responsible for'' are omitted as surplus.

In subsection (c), before clause (1), the words ''the head of'' and ''executive'' are added for consistency in the revised title and with other titles of the United States Code. In clause (2), the words ''and equitable'' in 49 App.:2604(a)(2) are omitted as surplus.

§ 70117. Relationship to other executive agencies, laws, and international obligations

(a) EXECUTIVE AGENCIES.—Except as provided in this chapter, a person is not required to obtain from an executive agency a license, approval, waiver, or exemption to launch a launch vehicle or operate a launch site.

(b) FEDERAL COMMUNICATIONS COMMISSION AND SECRETARY OF COMMERCE.—This chapter does not affect the authority of—

(1) the Federal Communications Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.); or

(2) the Secretary of Commerce under the Land Remote Sensing Policy Act of 1992 (15 U.S.C. 5601 et seq.).

(c) STATES AND POLITICAL SUBDIVISIONS.—A State or political subdivision of a State—

(1) may not adopt or have in effect a law, regulation, standard, or order inconsistent with this chapter; but

(2) may adopt or have in effect a law, regulation, standard, or order consistent with this chapter that is in addition to or more stringent than a requirement of, or regulation prescribed under, this chapter.

(d) CONSULTATION.—The Secretary of Transportation is encouraged to consult with a State to simplify and expedite the approval of a space launch activity.

(e) FOREIGN COUNTRIES.—The Secretary of Transportation shall—

(1) carry out this chapter consistent with an obligation the United States Government assumes in a treaty, convention, or agreement in force between the Government and the government of a foreign country; and

(2) consider applicable laws and requirements of a foreign country when carrying out this chapter.

(f) LAUNCH NOT AN EXPORT.—A launch vehicle or payload that is launched is not, because of the launch, an export for purposes of a law controlling exports.

(g) NONAPPLICATION.—This chapter does not apply to—

(1) a launch, operation of a launch vehicle or launch site, or other space activity the Government carries out for the Government; or

(2) planning or policies related to the launch, operation, or activity.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1342; Pub. L. 104–287, § 5(95), Oct. 11, 1996, 110 Stat. 3398.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70117(a)	49 App.:2605(c)(1).	Oct. 30, 1984, Pub. L. 98–575, §§ 6(c), 21, 98 Stat. 3058, 3063.
70117(b)	49 App.:2605(c)(2).	
70117(c)	49 App.:2620(a) (1st, 2d sentences).	
70117(d)	49 App.:2620(a) (last sentence).	
70117(e)	49 App.:2620(d).	
70117(f)	49 App.:2620(b).	
70117(g)	49 App.:2620(c).	

In subsection (e)(1), the words ''government of a foreign country'' are substituted for ''foreign nation'' for consistency in the revised title and with other titles of the United States Code.

PUB. L. 104–287

This amends 49:70117(b)(2) by updating a cross-reference. Section 4 of the Land Remote Sensing Policy Act of 1992 (Public Law 102–555, 106 Stat. 4166) repealed the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.). The substantive provisions of the Land Remote Sensing Policy Act of 1992, which replaced the Land Remote-Sensing Commercialization Act of 1984, were classified to the United States Code at 15 U.S.C. 5601 et seq.

REFERENCES IN TEXT

The Communications Act of 1934, referred to in subsec. (b)(1), is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended, which is classified principally to section 151 et seq. of Title 47, Telegraphs, Telephones, and Radiotelegraphs. For complete classification of this Act to the Code, see section 609 of Title 47 and Tables.

The Land Remote Sensing Policy Act of 1992, referred to in subsec. (b)(2), is Pub. L. 102–555, Oct. 28, 1992, 106 Stat. 4163, which is classified principally to chapter 82 (§ 5601 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 5601 of Title 15 and Tables.

AMENDMENTS

1996—Subsec. (b)(2). Pub. L. 104–287 substituted ''Land Remote Sensing Policy Act of 1992 (15 U.S.C. 5601 et seq.)'' for ''Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.)''.

§ 70118. User fees

The Secretary of Transportation may collect a user fee for a regulatory or other service conducted under this chapter only if specifically authorized by this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1342.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70118	49 App.:2623 (last sentence).	Oct. 30, 1984, Pub. L. 98–575, § 24 (last sentence), 98 Stat. 3064; Dec. 5, 1985, Pub. L. 99–170, § 301, 99 Stat. 1018; Oct. 30, 1987, Pub. L. 100–147, § 120, 101 Stat. 868; Nov. 17, 1988, Pub. L. 100–685, § 213, 102 Stat. 4093; Nov. 16, 1990, Pub. L. 101–611, § 117(a), 104 Stat. 3202; restated Dec. 9, 1991, Pub. L. 102–195, § 13, 105 Stat. 1613; Nov. 4, 1992, Pub. L. 102–588, § 211, 106 Stat. 5115.

§ 70119. Authorization of appropriations

The following amounts may be appropriated to the Secretary of Transportation for the fiscal year ending September 30, 1993:

(1) $4,900,000 to carry out this chapter.

(2) $20,000,000 for a program to ensure the resiliency of the space launch infrastructure of the United States if a law is enacted to establish that program in the Department of Transportation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1343.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70119	49 App.:2623 (less last sentence).	Oct. 30, 1984, Pub. L. 98–575, § 24 (less last sentence), 98 Stat. 3064; Dec. 5, 1985, Pub. L. 99–170, § 301, 99 Stat. 1018; Oct. 30, 1987, Pub. L. 100–147, § 120, 101 Stat. 868; Nov. 17, 1988, Pub. L. 100–685, § 213, 102 Stat. 4093; Nov. 16, 1990, Pub. L. 101–611, § 117(a), 104 Stat. 3202; restated Dec. 9, 1991, Pub. L. 102–195, § 13, 105 Stat. 1613; Nov. 4, 1992, Pub. L. 102–588, § 211, 106 Stat. 5115.

In this section, the amendment by section 211 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 (Pub. L. 102–588, 106 Stat. 5115) was executed to carry out the probable intent of Congress by omitting the period after ''1993''.

As to the applicability of section 219 of the Act (Pub. L. 102–588, 106 Stat. 5118) to amounts authorized by this section for fiscal year 1993, see section 6(b) of the bill.

CHAPTER 703—SPACE TRANSPORTATION INFRASTRUCTURE MATCHING GRANTS

Sec.
70301. Definitions.
70302. Grant authority.
70303. Grant applications.
70304. Environmental requirements.
70305. Authorization of appropriations.

§ 70301. Definitions

In this chapter—

(1) the definitions in section 502 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 (15 U.S.C. 5802) apply.

(2) ''commercial space transportation infrastructure development'' includes—

(A) construction, improvement, design, and engineering of space transportation infrastructure in the United States; and

(B) technical studies to define how new or enhanced space transportation infrastructure can best meet the needs of the United States commercial space transportation industry.

(3) ''project'' means a project (or separate projects submitted together) to carry out commercial space transportation infrastructure development, including the combined submission of all projects to be undertaken at a particular site in a fiscal year.

(4) ''project grant'' means a grant of an amount by the Secretary of Transportation to a sponsor for one or more projects.

(5) ''public agency'' means a State or an agency of a State, a political subdivision of a State, or a tax-supported organization.

(6) ''sponsor'' means a public agency that, individually or jointly with one or more other public agencies, submits to the Secretary under this chapter an application for a project grant.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1343.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70301	15:5804(a).	Nov. 4, 1992, Pub. L. 102–588, §505(a), 106 Stat. 5124.

Clause (1) is added to incorporate the definitions in 15:5802.

In clause (2), the word ''includes'' is substituted for ''may include'' for consistency in the revised title and with other titles of the United States Code.

In clause (5), the words ''municipality or other'' are omitted for consistency.

The text of 15:5804(5) is omitted as unnecessary because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

§ 70302. Grant authority

(a) GENERAL AUTHORITY.—To ensure the resiliency of the space transportation infrastructure of the United States, the Secretary of Transportation may make project grants to sponsors as provided in this chapter.

(b) LIMITATIONS.—The Secretary may make a project grant under this chapter only if—

(1) at least 10 percent of the total cost of the project will be paid by the private sector; and

(2) the grant will not be for more than 50 percent of the total cost of the project.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1343.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70302(a)	15:5804(b) (1st sentence).	Nov. 4, 1992, Pub. L. 102–588, §505(b) (1st sentence), (f), 106 Stat. 5125, 5127.
70302(b)	15:5804(f).	

In subsection (a), the words ''of the United States'' are substituted for ''Nation's'' for consistency.

§ 70303. Grant applications

(a) GENERAL.—A sponsor may submit to the Secretary of Transportation an application for a project grant. The application must state the project to be undertaken and be in the form and contain the information the Secretary requires.

(b) CONSIDERATIONS AND CONSULTATION.—(1) In selecting proposed projects for grants under this section, the Secretary of Transportation shall consider—

(A) the contribution of the project to industry capabilities that serve the United States Government's space transportation needs;

(B) the extent of industry's financial contribution to the project;

(C) the extent of industry's participation in the project;

(D) the positive impact of the project on the international competitiveness of the United States space transportation industry;

(E) the extent of State contributions to the project; and

(F) the impact of the project on launch operations and other activities at Government launch ranges.

(2) The Secretary of Transportation shall consult with the Secretary of Defense, the Administrator of the National Space and Aeronautics Administration, and the heads of other appropriate agencies of the Government about paragraph (1)(A) and (F) of this subsection.

(c) REQUIREMENTS.—The Secretary of Transportation may approve an application only if the Secretary is satisfied that—

(1) the project will contribute to the purposes of this chapter;

(2) the project is reasonably consistent with plans (existing at the time of approval of the project) of public agencies that are—

(A) authorized by the State in which the project is located; and

(B) responsible for the development of the area surrounding the project site;

(3) if the application proposes to use Government property, the specific consent of the head of the appropriate agency has been obtained;

(4) the project will be completed without unreasonable delay;

(5) the sponsor submitting the application has the legal authority to engage in the project; and

(6) any additional requirements prescribed by the Secretary have been met.

(d) PREFERENCE FOR INDUSTRY CONTRIBUTIONS.—The Secretary of Transportation shall give preference to applications for projects for which there will be greater industry financial contributions, all other factors being equal.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1344.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70303(a)	15:5804(d)(1).	Nov. 4, 1992, Pub. L. 102–588, §505(c), (d), 106 Stat. 5125.
70303(b)(1) ..	15:5804(c)(1).	
70303(b)(2) ..	15:5804(c)(2).	
70303(c)	15:5804(d)(2).	
70303(d)	15:5804(c)(3).	

In subsection (a), the words ''for one or more projects'' are omitted as unnecessary because of the definition of ''project'' in section 70301 of the revised title.

In subsection (c)(5), the words ''as proposed'' are omitted as surplus.

§ 70304. Environmental requirements

(a) POLICY.—It is the policy of the United States that projects selected under this chapter shall provide for the protection and enhancement of the natural resources and the quality of the environment of the United States. In carrying out this policy, the Secretary of Transportation shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency about a project that may have a significant effect on natural resources, including fish and wildlife, natural, scenic, and recreational assets, water and air quality, and other factors affecting the environment. If the Secretary of Transportation finds that a project will have a significant adverse effect, the Secretary may approve the application for the project only if, after a complete review that is a matter of public record, the Secretary makes a written finding that no feasible and prudent alternative to the project exists and that all reasonable steps have been taken to minimize the adverse effect.

(b) PUBLIC HEARING REQUIREMENT.—The Secretary of Transportation may approve an application only if the sponsor of the project certifies to the Secretary that an opportunity for a public hearing has been provided to consider the economic, social, and environmental effects of the project and its consistency with the goals of any planning carried out by the community. When a hearing is held under this paragraph, the sponsor shall submit a copy of the transcript of the hearing to the Secretary.

(c) COMPLIANCE WITH AIR AND WATER QUALITY STANDARDS.—(1) The Secretary of Transportation may approve an application only if the chief executive officer of the State in which the project is located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated to comply with applicable air and water quality standards. If the Administrator has not prescribed those standards, certification shall be obtained from the Administrator. Notice of certification or refusal to certify shall be provided not later than 60 days after the Secretary receives the application.

(2) The Secretary of Transportation shall condition the approval of an application on compliance with applicable air and water quality standards during construction and operation.

(d) COMPLIANCE WITH LAWS AND REGULATIONS.—The Secretary of Transportation may require a certification from a sponsor that the sponsor will comply with all applicable laws and regulations. The Secretary may rescind at any time acceptance of a certification from a sponsor under this subsection. This subsection does not affect any responsibility of the Secretary under another law, including—

(1) section 303 of this title;

(2) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);

(3) title VIII of the Act of April 11, 1968 (42 U.S.C. 3601 et seq.);

(4) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(5) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1344.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70304	15:5804(e).	Nov. 4, 1992, Pub. L. 102–588, §505(e), 106 Stat. 5126.

In subsection (a), the words ''policy of the United States'' are substituted for ''national policy'', and the words ''of the United States'' are substituted for ''of the Nation'', for consistency. The words ''included in a project grant application'' and ''full and'' are omitted as surplus.

In subsection (b), the words ''of objectives'' are omitted as surplus.

In subsection (c), the words ''chief executive officer'' are substituted for ''Governor'' for consistency in the revised title and because the word ''State'' includes the territories and possessions of the United States.

In subsection (d), before clause (1), the words ''in connection with any project'', ''imposed on such sponsor under this section in connection with such project'', and ''or discharge'' are omitted as surplus. The words ''laws and regulations'' are substituted for ''statutory and administrative requirements'' for consistency in the revised title.

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (d)(2), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified 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.

Title VIII of the Act of April 11, 1968, referred to in subsec. (d)(3), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, as amended, known as the Fair Housing Act, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of Title 42 and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (d)(4), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in sub-

sec. (d)(5), is Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, as amended, which is classified principally to chapter 61 (§ 4601 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of Title 42 and Tables.

§ 70305. Authorization of appropriations

Not more than $10,000,000 may be appropriated to the Secretary of Transportation to make grants under this chapter. Amounts appropriated under this section remain available until expended.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1345.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
70305	15:5804(b) (2d, last sentences).	Nov. 4, 1992, Pub. L. 102–588, § 505(b) (2d, last sentences), 106 Stat. 5125.

SUBTITLE X—MISCELLANEOUS

Chapter		Sec.
801.	**Bills of Lading**	**80101**
803.	**Contraband**	**80301**
805.	**Miscellaneous**	**80501**

CHAPTER 801—BILLS OF LADING

Sec.
80101. Definitions.
80102. Application.
80103. Negotiable and nonnegotiable bills.
80104. Form and requirements for negotiation.
80105. Title and rights affected by negotiation.
80106. Transfer without negotiation.
80107. Warranties and liability.
80108. Alterations and additions.
80109. Liens under negotiable bills.
80110. Duty to deliver goods.
80111. Liability for delivery of goods.
80112. Liability under negotiable bills issued in parts, sets, or duplicates.
80113. Liability for nonreceipt, misdescription, and improper loading.
80114. Lost, stolen, and destroyed negotiable bills.
80115. Limitation on use of judicial process to obtain possession of goods from common carriers.
80116. Criminal penalty.

AMENDMENTS

1994—Pub. L. 103–429, § 6(79), Oct. 31, 1994, 108 Stat. 4388, made technical amendment to chapter heading.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 46 App. section 1304.

§ 80101. Definitions

In this chapter—

(1) ''consignee'' means the person named in a bill of lading as the person to whom the goods are to be delivered.

(2) ''consignor'' means the person named in a bill of lading as the person from whom the goods have been received for shipment.

(3) ''goods'' means merchandise or personal property that has been, is being, or will be transported.

(4) ''holder'' means a person having possession of, and a property right in, a bill of lading.

(5) ''order'' means an order by indorsement on a bill of lading.

(6) ''purchase'' includes taking by mortgage or pledge.

(7) ''State'' means a State of the United States, the District of Columbia, and a territory or possession of the United States.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1346.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80101	49 App.:122.	Aug. 29, 1916, ch. 415, § 42, 39 Stat. 545.

In this chapter, the words ''negotiable bill of lading'' are substituted for ''order bill'', and the words ''nonnegotiable bill of lading'' are substituted for ''straight bill'', for clarity and consistency in the revised title and with other titles of the United States Code.

In this section, before clause (1), the words ''unless the context of subject matter otherwise requires'' are omitted as unnecessary because of the restatement. The words '' 'Action' includes counterclaim, set-off, and suit in equity'' are omitted as unnecessary. The words '' 'Bill' means bill of lading, governed by this chapter'' are omitted because of section 80102 of the revised title. In clauses (1), (2), and (4), the words '' 'Person' includes a corporation or partnership, or two or more persons having a joint or common interest'' are omitted because of 1:1. In clause (3), the words ''personal property'' are substituted for ''chattels'' for clarity and consistency. The words ''is being'' are substituted for ''in course of'' for clarity. In clause (7), the words '' 'State' means a State of the United States'' are substituted for '' 'State' includes'' for clarity and consistency in the revised title and with other titles of the Code. The word ''possession'' is substituted for ''insular possession, or isthmian possession'' for consistency in the revised title.

§ 80102. Application

This chapter applies to a bill of lading when the bill is issued by a common carrier for the transportation of goods—

(1) between a place in the District of Columbia and another place in the District of Columbia;

(2) between a place in a territory or possession of the United States and another place in the same territory or possession;

(3) between a place in a State and a place in another State;

(4) between a place in a State and a place in the same State through another State or a foreign country; or

(5) from a place in a State to a place in a foreign country.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1346.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80102	49 App.:81.	Aug. 29, 1916, ch. 415, § 1, 39 Stat. 538.

In this chapter, the words ''common carrier'' are substituted for ''carrier'' because the source provisions restated in this section provide that this chapter applies to bills of lading issued by common carriers.

In clause (2), the words ''territory or possession'' are substituted for ''Territory'' for consistency in the re-

vised title and with other titles of the United States Code.

§ 80103. Negotiable and nonnegotiable bills

(a) NEGOTIABLE BILLS.—(1) A bill of lading is negotiable if the bill—

(A) states that the goods are to be delivered to the order of a consignee; and

(B) does not contain on its face an agreement with the shipper that the bill is not negotiable.

(2) Inserting in a negotiable bill of lading the name of a person to be notified of the arrival of the goods—

(A) does not limit its negotiability; and

(B) is not notice to the purchaser of the goods of a right the named person has to the goods.

(b) NONNEGOTIABLE BILLS.—(1) A bill of lading is nonnegotiable if the bill states that the goods are to be delivered to a consignee. The indorsement of a nonnegotiable bill does not—

(A) make the bill negotiable; or

(B) give the transferee any additional right.

(2) A common carrier issuing a nonnegotiable bill of lading must put ''nonnegotiable'' or ''not negotiable'' on the bill. This paragraph does not apply to an informal memorandum or acknowledgment.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1346.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80103(a)(1) ..	49 App.:83.	Aug. 29, 1916, ch. 415, §§ 2, 3, 6, 7, 29 (last sentence), 39 Stat. 539, 543.
80103(a)(2) ..	49 App.:87.	
80103(b)(1) ..	49 App.:82. 49 App.:109 (last sentence).	
80103(b)(2) ..	49 App.:86.	

In subsection (a)(1), the words ''A bill of lading is negotiable if . . . states that the goods are to be delivered to the order of a consignee'' are substituted for ''A bill in which it is stated that the goods are consigned or destined to the order of any person named in such bill is an order bill'' for clarity and consistency in the revised title and with other titles of the United States Code. The words ''does not contain on its face an agreement with the shipper that the bill is not negotiable'' are substituted for 49 App.:83 (last sentence) for clarity and to eliminate unnecessary words.

In subsection (a)(2)(B), the words ''right the named person has'' are substituted for ''rights or equities of such person'' for clarity.

In subsection (b)(1), before clause (A), the words ''A bill of lading is nonnegotiable if'' are substituted for ''A bill in which . . . is a straight bill'' in 49 App.:82 for consistency in the revised title and with other titles of the Code. The words ''free from existing equities'' in 49 App.:109 (last sentence) are omitted as surplus.

§ 80104. Form and requirements for negotiation

(a) GENERAL RULES.—(1) A negotiable bill of lading may be negotiated by indorsement. An indorsement may be made in blank or to a specified person. If the goods are deliverable to the order of a specified person, then the bill must be indorsed by that person.

(2) A negotiable bill of lading may be negotiated by delivery when the common carrier, under the terms of the bill, undertakes to deliver the goods to the order of a specified person and that person or a subsequent indorsee has indorsed the bill in blank.

(3) A negotiable bill of lading may be negotiated by a person possessing the bill, regardless of the way in which the person got possession, if—

(A) a common carrier, under the terms of the bill, undertakes to deliver the goods to that person; or

(B) when the bill is negotiated, it is in a form that allows it to be negotiated by delivery.

(b) VALIDITY NOT AFFECTED.—The validity of a negotiation of a bill of lading is not affected by the negotiation having been a breach of duty by the person making the negotiation, or by the owner of the bill having been deprived of possession by fraud, accident, mistake, duress, loss, theft, or conversion, if the person to whom the bill is negotiated, or a person to whom the bill is subsequently negotiated, gives value for the bill in good faith and without notice of the breach of duty, fraud, accident, mistake, duress, loss, theft, or conversion.

(c) NEGOTIATION BY SELLER, MORTGAGOR, OR PLEDGOR TO PERSON WITHOUT NOTICE.—When goods for which a negotiable bill of lading has been issued are in a common carrier's possession, and the person to whom the bill has been issued retains possession of the bill after selling, mortgaging, or pledging the goods or bill, the subsequent negotiation of the bill by that person to another person receiving the bill for value, in good faith, and without notice of the prior sale, mortgage, or pledge has the same effect as if the first purchaser of the goods or bill had expressly authorized the subsequent negotiation.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1347.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80104(a)(1) ..	49 App.:108.	Aug. 29, 1916, ch. 415, §§ 27, 28, 30, 37, 38, 39 Stat. 542, 543, 544.
80104(a)(2) ..	49 App.:107.	
80104(a)(3) ..	49 App.:110.	
80104(b)	49 App.:117.	
80104(c)	49 App.:118.	

In subsection (a)(1), the words ''If the goods are deliverable to the order of a specified person'' are substituted for ''the person to whose order the goods are deliverable by the tenor of the bill'' for clarity. The text of 49 App.:108 (last sentence) is omitted as unnecessary because of the restatement.

§ 80105. Title and rights affected by negotiation

(a) TITLE.—When a negotiable bill of lading is negotiated—

(1) the person to whom it is negotiated acquires the title to the goods that—

(A) the person negotiating the bill had the ability to convey to a purchaser in good faith for value; and

(B) the consignor and consignee had the ability to convey to such a purchaser; and

(2) the common carrier issuing the bill becomes obligated directly to the person to

whom the bill is negotiated to hold possession of the goods under the terms of the bill the same as if the carrier had issued the bill to that person.

(b) SUPERIORITY OF RIGHTS.—When a negotiable bill of lading is negotiated to a person for value in good faith, that person's right to the goods for which the bill was issued is superior to a seller's lien or to a right to stop the transportation of the goods. This subsection applies whether the negotiation is made before or after the common carrier issuing the bill receives notice of the seller's claim. The carrier may deliver the goods to an unpaid seller only if the bill first is surrendered for cancellation.

(c) MORTGAGEE AND LIEN HOLDER RIGHTS NOT AFFECTED.—Except as provided in subsection (b) of this section, this chapter does not limit a right of a mortgagee or lien holder having a mortgage or lien on goods against a person that purchased for value in good faith from the owner, and got possession of the goods immediately before delivery to the common carrier.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1347.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80105(a)	49 App.:111.	Aug. 29, 1916, ch. 415, §§31, 39, 40, 39 Stat. 543, 544.
80105(b)	49 App.:119.	
80105(c)	49 App.:120.	

In subsection (a)(1), before subclause (A), the word ''duly'' is omitted as surplus.

In subsection (b), the words ''right . . . is superior'' are substituted for ''no . . . shall defeat the rights of'' for clarity. The words ''right to stop the transportation'' are substituted for ''right of stoppage in transitu'' for clarity.

In subsection (c), the word ''remedies'' is omitted as being included in ''right''. The words ''whose mortgage or lien on goods would be valid, apart from this chapter'' are omitted as unnecessary because of the restatement. The words ''which are subject to the mortgage or lien'' are omitted as unnecessary.

§ 80106. Transfer without negotiation

(a) DELIVERY AND AGREEMENT.—The holder of a bill of lading may transfer the bill without negotiating it by delivery and agreement to transfer title to the bill or to the goods represented by it. Subject to the agreement, the person to whom the bill is transferred has title to the goods against the transferor.

(b) COMPELLING INDORSEMENT.—When a negotiable bill of lading is transferred for value by delivery without being negotiated and indorsement of the transferor is essential for negotiation, the transferee may compel the transferor to indorse the bill unless a contrary intention appears. The negotiation is effective when the indorsement is made.

(c) EFFECT OF NOTIFICATION.—(1) When a transferee notifies the common carrier that a nonnegotiable bill of lading has been transferred under subsection (a) of this section, the carrier is obligated directly to the transferee for any obligations the carrier owed to the transferor immediately before the notification. However, before the carrier is notified, the transferee's title to the goods and right to acquire the obligations of the carrier may be defeated by—

(A) garnishment, attachment, or execution on the goods by a creditor of the transferor; or

(B) notice to the carrier by the transferor or a purchaser from the transferor of a later purchase of the goods from the transferor.

(2) A common carrier has been notified under this subsection only if—

(A) an officer or agent of the carrier, whose actual or apparent authority includes acting on the notification, has been notified; and

(B) the officer or agent has had time, exercising reasonable diligence, to communicate with the agent having possession or control of the goods.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1348.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80106(a)	49 App.:109 (1st sentence).	Aug. 29, 1916, ch. 415, §§29 (1st sentence), 32, 33, 39 Stat. 543.
	49 App.:112 (1st sentence).	
80106(b)	49 App.:113.	
80106(c)	49 App.:112 (2d–last sentences).	

In subsection (a), the words ''without negotiating it'' are added for clarity.

In subsection (b), the text of 49 App.:113 (last sentence) is omitted as unnecessary because of the words ''the transferee may compel the transferor''.

In subsection (c)(1), before clause (A), the words ''also acquires the right to notify'' and ''by the transferor or transferee of a straight bill'' are omitted as unnecessary because of the restatement.

§ 80107. Warranties and liability

(a) GENERAL RULE.—Unless a contrary intention appears, a person negotiating or transferring a bill of lading for value warrants that—

(1) the bill is genuine;

(2) the person has the right to transfer the bill and the title to the goods described in the bill;

(3) the person does not know of a fact that would affect the validity or worth of the bill; and

(4) the goods are merchantable or fit for a particular purpose when merchantability or fitness would have been implied if the agreement of the parties had been to transfer the goods without a bill of lading.

(b) SECURITY FOR DEBT.—A person holding a bill of lading as security for a debt and in good faith demanding or receiving payment of the debt from another person does not warrant by the demand or receipt—

(1) the genuineness of the bill; or

(2) the quantity or quality of the goods described in the bill.

(c) DUPLICATES.—A common carrier issuing a bill of lading, on the face of which is the word ''duplicate'' or another word indicating that the bill is not an original bill, is liable the same as a person that represents and warrants that the bill is an accurate copy of an original bill properly issued. The carrier is not otherwise liable under the bill.

(d) INDORSER LIABILITY.—Indorsement of a bill of lading does not make the indorser liable for failure of the common carrier or a previous indorser to fulfill its obligations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1349.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80107(a)	49 App.:114.	Aug. 29, 1916, ch. 415, §§15, 34–36, 39 Stat. 541, 543.
80107(b)	49 App.:116.	
80107(c)	49 App.:95.	
80107(d)	49 App.:115.	

In subsection (a), before clause (1), the words ''by indorsement or delivery'' are omitted as surplus. In clause (4), the words ''merchantability or fitness'' are substituted for ''such warranties'', and the words ''the goods without a bill of lading'' are substituted for ''without a bill the goods represented thereby'', for clarity.

In subsection (b), before clause (1), the words ''person holding'' are substituted for ''mortgagee or pledgee or other holder'' because they are inclusive. The words ''from another person'' are substituted for ''whether from a party to a draft drawn for such debt or from any other person'' to eliminate unnecessary words. The words ''does not warrant by the demand or receipt'' are substituted for ''shall not be deemed by so doing to represent or warrant'' for clarity.

In subsection (c), the words ''A common carrier issuing . . . is liable'' are substituted for ''plainly shall impose upon the carrier issuing the same the liability'' for clarity and to eliminate unnecessary words. The words ''The carrier is not otherwise liable under the bill'' are substituted for ''but no other liability'' for clarity.

In subsection (d), the word ''respective'' is omitted as unnecessary.

§ 80108. Alterations and additions

An alteration or addition to a bill of lading after its issuance by a common carrier, without authorization from the carrier in writing or noted on the bill, is void. However, the original terms of the bill are enforceable.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1349.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80108	49 App.:93.	Aug. 29, 1916, ch. 415, §13, 39 Stat. 540.

The word ''erasure'' is omitted as being included in ''alteration''. The words ''whatever be the nature and purpose of the change'' are omitted as surplus. The word ''terms'' is substituted for ''tenor'' for clarity.

§ 80109. Liens under negotiable bills

A common carrier issuing a negotiable bill of lading has a lien on the goods covered by the bill for—

(1) charges for storage, transportation, and delivery (including demurrage and terminal charges), and expenses necessary to preserve the goods or incidental to transporting the goods after the date of the bill; and

(2) other charges for which the bill expressly specifies a lien is claimed to the extent the charges are allowed by law and the agreement between the consignor and carrier.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1349.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80109	49 App.:105.	Aug. 29, 1916, ch. 415, §25, 39 Stat. 542.

In this section, before clause (1), the word ''If'' is omitted as surplus. The words ''covered by the bill'' are substituted for ''therein mentioned'' for clarity. In clause (1), the words ''charges for storage, transportation, and delivery (including demurrage and terminal charges)'' are substituted for ''all charges on those goods for freight, storage, demurrage and terminal charges . . . and all other charges incurred in transportation and delivery'' as being inclusive and to conform to section 7–307 of the Uniform Commercial Code. In clause (2), the words ''other charges for which the bill expressly specifies a lien'' are substituted for ''unless the bill expressly enumerates other charges for which a lien . . . In such case there shall also be a lien for the charges enumerated'' for clarity.

§ 80110. Duty to deliver goods

(a) GENERAL RULES.—Except to the extent a common carrier establishes an excuse provided by law, the carrier must deliver goods covered by a bill of lading on demand of the consignee named in a nonnegotiable bill or the holder of a negotiable bill for the goods when the consignee or holder—

(1) offers in good faith to satisfy the lien of the carrier on the goods;

(2) has possession of the bill and, if a negotiable bill, offers to indorse and give the bill to the carrier; and

(3) agrees to sign, on delivery of the goods, a receipt for delivery if requested by the carrier.

(b) PERSONS TO WHOM GOODS MAY BE DELIVERED.—Subject to section 80111 of this title, a common carrier may deliver the goods covered by a bill of lading to—

(1) a person entitled to their possession;

(2) the consignee named in a nonnegotiable bill; or

(3) a person in possession of a negotiable bill if—

(A) the goods are deliverable to the order of that person; or

(B) the bill has been indorsed to that person or in blank by the consignee or another indorsee.

(c) COMMON CARRIER CLAIMS OF TITLE AND POSSESSION.—A claim by a common carrier that the carrier has title to goods or right to their possession is an excuse for nondelivery of the goods only if the title or right is derived from—

(1) a transfer made by the consignor or consignee after the shipment; or

(2) the carrier's lien.

(d) ADVERSE CLAIMS.—If a person other than the consignee or the person in possession of a bill of lading claims title to or possession of goods and the common carrier knows of the claim, the carrier is not required to deliver the goods to any claimant until the carrier has had a reasonable time to decide the validity of the adverse claim or to bring a civil action to require all claimants to interplead.

(e) INTERPLEADER.—If at least 2 persons claim title to or possession of the goods, the common carrier may—

(1) bring a civil action to interplead all known claimants to the goods; or

(2) require those claimants to interplead as a defense in an action brought against the carrier for nondelivery.

(f) THIRD PERSON CLAIMS NOT A DEFENSE.—Except as provided in subsections (b), (d), and (e) of this section, title or a right of a third person is not a defense to an action brought by the consignee of a nonnegotiable bill of lading or by the holder of a negotiable bill against the common carrier for failure to deliver the goods on demand unless enforced by legal process.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1349.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80110(a)	49 App.:88.	Aug. 29, 1916, ch. 415, §§8, 9, 16–19, 39 Stat. 539, 541.
80110(b)	49 App.:89.	
80110(c)	49 App.:96.	
80110(d)	49 App.:98.	
80110(e)	49 App.:97.	
80110(f)	49 App.:99.	

In subsection (a), before clause (1), the words ''Except to the extent a common carrier establishes an excuse provided by law'' are substituted for ''in the absence of some lawful excuse'' and ''In case the carrier refuses or fails to deliver the goods, in compliance with a demand by the consignee or holder so accompanied, the burden shall be upon the carrier to establish the existence of a lawful excuse for such refusal or failure'' for clarity and to eliminate unnecessary words. The word ''must'' is substituted for ''is bound to'' for clarity. The words ''if such a demand is accompanied by'' are omitted as unnecessary because of the restatement. In clause (1), the word ''lawful'' is omitted as unnecessary because of the restatement. In clause (2), the word ''properly'' is omitted as surplus. In clause (3), the word ''agrees'' is substituted for ''A readiness and willingness'' for clarity. The word ''receipt'' is substituted for ''acknowledgment'' for consistency. The words ''if such signature'' are omitted as unnecessary.

In subsection (b), before clause (1), the word ''may'' is substituted for ''is justified . . . in'' because it is more accurate. In clause (1), the word ''entitled'' is substituted for ''lawfully entitled'' to eliminate an unnecessary word. In clause (3), before subclause (A), the word ''if'' is substituted for ''by the terms of which'' for clarity. In subclause (B), the words ''another indorsee'' are substituted for ''by the mediate or immediate indorsee of the consignee'' as being inclusive.

In subsection (c), before clause (1), the words ''for his own benefit'' are omitted as surplus. The words ''nondelivery of'' are substituted for ''refusing to deliver'' because they are more accurate. The words ''according to the terms of a bill issued for them'' are omitted as unnecessary. In clause (1), the words ''directly or indirectly'' are omitted as unnecessary.

In subsection (d), the word ''person'' is substituted for ''someone'' for consistency in this chapter. The words ''claims title'' are substituted for ''has a claim to the title'' for consistency. The words ''is not required to'' are substituted for ''shall be excused from liability for refusing to'' for clarity. The words ''any claimant'' are substituted for ''either to the consignee or person in possession of the bill or to the adverse claimant'' to eliminate unnecessary words. The words ''civil action'' are substituted for ''legal proceedings'' for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (e), before clause (1), the words ''at least 2'' are substituted for ''more than one'' for consistency in the revised title and with other titles of the United States Code. In clause (1), the words ''civil action'' are substituted for ''an original suit'' for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words ''whichever is appropriate'' are omitted as unnecessary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 80111 of this title.

§ 80111. Liability for delivery of goods

(a) GENERAL RULES.—A common carrier is liable for damages to a person having title to, or right to possession of, goods when—

(1) the carrier delivers the goods to a person not entitled to their possession unless the delivery is authorized under section 80110(b)(2) or (3) of this title;

(2) the carrier makes a delivery under section 80110(b)(2) or (3) of this title after being requested by or for a person having title to, or right to possession of, the goods not to make the delivery; or

(3) at the time of delivery under section 80110(b)(2) or (3) of this title, the carrier has information it is delivering the goods to a person not entitled to their possession.

(b) EFFECTIVENESS OF REQUEST OR INFORMATION.—A request or information is effective under subsection (a)(2) or (3) of this section only if—

(1) an officer or agent of the carrier, whose actual or apparent authority includes acting on the request or information, has been given the request or information; and

(2) the officer or agent has had time, exercising reasonable diligence, to stop delivery of the goods.

(c) FAILURE TO TAKE AND CANCEL BILLS.—Except as provided in subsection (d) of this section, if a common carrier delivers goods for which a negotiable bill of lading has been issued without taking and canceling the bill, the carrier is liable for damages for failure to deliver the goods to a person purchasing the bill for value in good faith whether the purchase was before or after delivery and even when delivery was made to the person entitled to the goods. The carrier also is liable under this paragraph if part of the goods are delivered without taking and canceling the bill or plainly noting on the bill that a partial delivery was made and generally describing the goods or the remaining goods kept by the carrier.

(d) EXCEPTIONS TO LIABILITY.—A common carrier is not liable for failure to deliver goods to the consignee or owner of the goods or a holder of the bill if—

(1) a delivery described in subsection (c) of this section was compelled by legal process;

(2) the goods have been sold lawfully to satisfy the carrier's lien;

(3) the goods have not been claimed; or

(4) the goods are perishable or hazardous.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1350.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80111(a)	49 App.:90 (less last par.).	Aug. 29, 1916, ch. 415, §§10–12, 26, 39 Stat. 540, 542.
80111(b)	49 App.:90 (last par.).	
80111(c)	49 App.:91 (words after 2d comma). 49 App.:92 (words after 2d comma).	
80111(d)	49 App.:91 (words before 2d comma). 49 App.:92 (words before 2d comma). 49 App.:106.	

In subsection (a), before clause (1), the word ''title'' is substituted for ''right of property'' for consistency in this chapter.

In subsection (c), the words ''negotiable bill of lading'' are substituted for ''order bill . . . the negotiation of which would transfer the right to the possession of the goods'' in 49 App.:91 for consistency in this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 80110 of this title.

§ 80112. Liability under negotiable bills issued in parts, sets, or duplicates

(a) PARTS AND SETS.—A negotiable bill of lading issued in a State for the transportation of goods to a place in the 48 contiguous States or the District of Columbia may not be issued in parts or sets. A common carrier issuing a bill in violation of this subsection is liable for damages for failure to deliver the goods to a purchaser of one part for value in good faith even though the purchase occurred after the carrier delivered the goods to a holder of one of the other parts.

(b) DUPLICATES.—When at least 2 negotiable bills of lading are issued in a State for the same goods to be transported to a place in the 48 contiguous States or the District of Columbia, the word ''duplicate'' or another word indicating that the bill is not an original must be put plainly on the face of each bill except the original. A common carrier violating this subsection is liable for damages caused by the violation to a purchaser of the bill for value in good faith as an original bill even though the purchase occurred after the carrier delivered the goods to the holder of the original bill.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1351.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80112(a)	49 App.:84.	Aug. 29, 1916, ch. 415, §§4, 5, 39 Stat. 539.
80112(b)	49 App.:85.	

In this section, the words ''48 contiguous States or the District of Columbia'' are substituted for ''United States on the Continent of North America, except Alaska and Panama'' and the text of 49 App.:84 (proviso) and 85 (proviso) for clarity.

In subsection (a), the words ''If so issued'' and ''described therein'' are omitted as surplus. The word ''occurred'' is added for clarity.

§ 80113. Liability for nonreceipt, misdescription, and improper loading

(a) LIABILITY FOR NONRECEIPT AND MISDESCRIPTION.—Except as provided in this section, a common carrier issuing a bill of lading is liable for damages caused by nonreceipt by the carrier of any part of the goods by the date shown in the bill or by failure of the goods to correspond with the description contained in the bill. The carrier is liable to the owner of goods transported under a nonnegotiable bill (subject to the right of stoppage in transit) or to the holder of a negotiable bill if the owner or holder gave value in good faith relying on the description of the goods in the bill or on the shipment being made on the date shown in the bill.

(b) NONLIABILITY OF CARRIERS.—A common carrier issuing a bill of lading is not liable under subsection (a) of this section—

(1) when the goods are loaded by the shipper;

(2) when the bill—

(A) describes the goods in terms of marks or labels, or in a statement about kind, quantity, or condition; or

(B) is qualified by ''contents or condition of contents of packages unknown'', ''said to contain'', ''shipper's weight, load, and count'', or words of the same meaning; and

(3) to the extent the carrier does not know whether any part of the goods were received or conform to the description.

(c) LIABILITY FOR IMPROPER LOADING.—A common carrier issuing a bill of lading is not liable for damages caused by improper loading if—

(1) the shipper loads the goods; and

(2) the bill contains the words ''shipper's weight, load, and count'', or words of the same meaning indicating the shipper loaded the goods.

(d) CARRIER'S DUTY TO DETERMINE KIND, QUANTITY, AND NUMBER.—(1) When bulk freight is loaded by a shipper that makes available to the common carrier adequate facilities for weighing the freight, the carrier must determine the kind and quantity of the freight within a reasonable time after receiving the written request of the shipper to make the determination. In that situation, inserting the words ''shipper's weight'' or words of the same meaning in the bill of lading has no effect.

(2) When goods are loaded by a common carrier, the carrier must count the packages of goods, if package freight, and determine the kind and quantity, if bulk freight. In that situation, inserting in the bill of lading or in a notice, receipt, contract, rule, or tariff, the words ''shipper's weight, load, and count'' or words indicating that the shipper described and loaded the goods, has no effect except for freight concealed by packages.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1351.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80113(a)	49 App.:102.	Aug. 29, 1916, ch. 415, §22, 39 Stat. 542; restated Mar. 4, 1927, ch. 510, §6, 44 Stat. 1450.
80113(b)	49 App.:101 (1st sentence).	Aug. 29, 1916, ch. 415, §§20, 21, 39 Stat. 541.
80113(c)	49 App.:101 (last sentence words before proviso).	
80113(d)(1) ..	49 App.:101 (last sentence proviso).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80113(d)(2) ..	49 App.:100.	

In subsection (a), the words ''a common carrier issuing a bill of lading'' are substituted for ''If a bill of lading has been issued by a carrier or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the receiving of goods and issuing bills of lading therefor for transportation in commerce among the several States and with foreign nations'' to eliminate unnecessary words and for consistency with section 80102 of the revised title. The words ''at the time of its issue'' are omitted as surplus.

In subsection (b), before clause (1), the words ''A common carrier issuing a bill of lading is not liable under subsection (a) of this section'' are substituted for ''such statements, if true, shall not make liable the carrier issuing the bill of lading'' for clarity. In clause (1), the word ''goods'' is substituted for ''package freight or bulk freight'' for consistency in this chapter. In clause (2)(B), the quoted words are placed in quotation marks for consistency and to conform to section 7–301 of the Uniform Commercial Code. The words '' 'shipper's weight, load, and count' '' are added for consistency in this section.

In subsection (d)(1), the words ''makes available to the common carrier adequate facilities for weighing the freight'' are substituted for ''installs and maintains adequate facilities for weighing such freight, and the same are available to the carrier . . . when given a reasonable opportunity so to do'' to eliminate unnecessary words. The words ''In that situation, inserting the words 'shipper's weight' or other words of the same meaning in the bill of lading has no effect'' are substituted for ''and the carriers shall not in such cases insert in the bill of lading the words 'Shipper's weight', or other words of like purport, and if so inserted contrary to the provisions of this section, said words shall be treated as null and void and as if not inserted therein'' for clarity and to eliminate unnecessary words.

In subsection (d)(2), the words ''and such carrier shall not, in such cases'' are omitted as surplus. The words ''In that situation . . . has no effect'' are substituted for 49 App.:100 (last sentence) for clarity and to eliminate unnecessary words. The words ''except for freight concealed by packages'' are substituted for ''or in case of bulk freight and freight not concealed by packages the description made by him'' for clarity and to eliminate unnecessary words.

§ 80114. Lost, stolen, and destroyed negotiable bills

(a) DELIVERY ON COURT ORDER AND SURETY BOND.—If a negotiable bill of lading is lost, stolen, or destroyed, a court of competent jurisdiction may order the common carrier to deliver the goods if the person claiming the goods gives a surety bond, in an amount approved by the court, to indemnify the carrier or a person injured by delivery against liability under the outstanding original bill. The court also may order payment of reasonable costs and attorney's fees to the carrier. A voluntary surety bond, without court order, is binding on the parties to the bond.

(b) LIABILITY TO HOLDER.—Delivery of goods under a court order under subsection (a) of this section does not relieve a common carrier from liability to a person to whom the negotiable bill has been or is negotiated for value without notice of the court proceeding or of the delivery of the goods.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1352.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80114(a)	49 App.:94 (1st par.).	Aug. 29, 1916, ch. 415, §14, 39 Stat. 540.
80114(b)	49 App.:94 (last par.).	

In subsection (a), the word ''If'' is substituted for ''Where'' for clarity. The words ''upon satisfactory proof of such loss, theft, or destruction'' are omitted as unnecessary. The words ''if the person claiming the goods gives a surety bond'' are substituted for ''and upon the giving of a bond, with sufficient surety'' to clarify the condition precedent to court approval of delivery. The words ''in an amount'' are added for clarity. The word ''indemnify'' is substituted for ''protect'' because it is more accurate. The words ''against liability under the outstanding original bill'' are substituted for ''from any liability or loss incurred by reason of the original bill remaining outstanding'' for clarity. The words ''surety bond'' are substituted for ''indemnifying bond'' for consistency in this section.

§ 80115. Limitation on use of judicial process to obtain possession of goods from common carriers

(a) ATTACHMENT AND LEVY.—Except when a negotiable bill of lading was issued originally on delivery of goods by a person that did not have the power to dispose of the goods, goods in the possession of a common carrier for which a negotiable bill has been issued may be attached through judicial process or levied on in execution of a judgment only if the bill is surrendered to the carrier or its negotiation is enjoined.

(b) DELIVERY.—A common carrier may be compelled by judicial process to deliver goods under subsection (a) of this section only when the bill is surrendered to the carrier or impounded by the court.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1353.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80115(a)	49 App.:103 (1st sentence).	Aug. 29, 1916, ch. 415, §23, 39 Stat. 542.
80115(b)	49 App.:103 (last sentence).	

In subsection (a), the words ''Except when a negotiable bill of lading was issued originally on delivery of goods by a person that did not have the power to dispose of the goods, goods . . . may be attached . . . only if'' are substituted for ''If goods are delivered to a carrier by the owner or by a person whose act in conveying the title to them to a purchaser for value in good faith would bind the owner . . . they can not thereafter . . . be attached . . . unless'' to restate the source provision as an exception to conform to section 7–602 of the Uniform Commercial Code. The words ''through judicial process'' are substituted for ''by garnishment or otherwise'', and the words ''levied on in execution of a judgment'' are substituted for ''levied upon under an execution'', for clarity.

§ 80116. Criminal penalty

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person—

(1) violates this chapter with intent to defraud; or

(2) knowingly or with intent to defraud—

(A) falsely makes, alters, or copies a bill of lading subject to this chapter;

(B) utters, publishes, or issues a falsely made, altered, or copied bill subject to this chapter; or

(C) negotiates or transfers for value a bill containing a false statement.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1353.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80116	49 App.:121.	Aug. 29, 1916, ch. 415, §41, 39 Stat. 544.

In this section, before clause (1), the words ''fined under title 18'' are substituted for ''a fine not exceeding $5,000'', and the words ''shall be guilty of a misdemeanor'' are omitted, for consistency with title 18. The words ''upon conviction . . . punished for each offense'' are omitted as unnecessary because of the restatement. Clause (1) is substituted for ''or who, with intent to defraud, violates, or fails to comply with, or aids in any violation of, or failure to comply with any provision of this chapter'' for clarity and because of 18:2. In clause (2)(A), the words ''forges, counterfeits'' are omitted as being included in ''makes''. The word ''copies'' is substituted for ''prints or photographs'' for clarity. The words ''bill of lading subject to this chapter'' are substituted for ''bill of lading purporting to represent goods received for shipment among the several States or with foreign nations'' for clarity and for consistency with section 80102 of the revised title. Clause (2)(B) is substituted for ''utters or publishes as true and genuine any such falsely altered, forged, counterfeited, falsely printed or photographed bill of lading . . . or issues'' to eliminate unnecessary words and for consistency in this section. The words ''knowing it to be falsely altered, forged, counterfeited, falsely printed or photographed'' are omitted as unnecessary because of the restatement of the intent required to commit the crime. The words ''or aids in making, altering, forging, counterfeiting, printing or photographing, or uttering or publishing the same . . . or aids in issuing or procuring the issue of'' are omitted as surplus because of 18:2. The words ''as to the receipt of the goods, or as to any other matter'' are omitted as unnecessary.

CHAPTER 803—CONTRABAND

Sec.
80301. Definitions.
80302. Prohibitions.
80303. Seizure and forfeiture.
80304. Administrative.
80305. Availability of certain appropriations.
80306. Relationship to other laws.

§ 80301. Definitions

In this chapter—

(1) ''aircraft'' means a contrivance used, or capable of being used, for transportation in the air.

(2) ''vehicle'' means a contrivance used, or capable of being used, for transportation on, below, or above land, but does not include aircraft.

(3) ''vessel'' means a contrivance used, or capable of being used, for transportation in water, but does not include aircraft.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1353.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80301(1)	49 App.:787(c).	Aug. 9, 1939, ch. 618, §7(a)–(c), 53 Stat. 1292.
80301(2)	49 App.:787(b).	
80301(3)	49 App.:787(a).	

In this section, the word ''means'' is substituted for ''includes'' as being more precise.

In clause (1), the word ''contrivance'' is substituted for ''every description of craft or carriage or other contrivance'' to eliminate unnecessary words.

In clause (2), the word ''contrivance'' is substituted for ''every description of carriage or other contrivance'' to eliminate unnecessary words.

In clause (3), the word ''contrivance'' is substituted for ''every description of watercraft or other contrivance'' to eliminate unnecessary words.

§ 80302. Prohibitions

(a) DEFINITION.—In this section, ''contraband'' means—

(1) a narcotic drug (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)), including marihuana (as defined in section 102 of that Act (21 U.S.C. 802)), that—

(A) is possessed with intent to sell or offer for sale in violation of the laws and regulations of the United States;

(B) is acquired, possessed, sold, transferred, or offered for sale in violation of those laws;

(C) is acquired by theft, robbery, or burglary and transported—

(i) in the District of Columbia or a territory or possession of the United States; or

(ii) from a place in a State, the District of Columbia, or a territory or possession of the United States, to a place in another State, the District of Columbia, or a territory or possession; or

(D) does not bear tax-paid internal revenue stamps required by those laws or regulations;

(2) a firearm involved in a violation of chapter 53 of the Internal Revenue Code of 1986 (26 U.S.C. 5801 et seq.);

(3) a forged, altered, or counterfeit—

(A) coin or an obligation or other security of the United States Government (as defined in section 8 of title 18); or

(B) coin, obligation, or other security of the government of a foreign country;

(4) material or equipment used, or intended to be used, in making a coin, obligation, or other security referred to in clause (3) of this subsection;

(5) a cigarette involved in a violation of chapter 114 of title 18 or a regulation prescribed under chapter 114; or

(6)(A) a counterfeit label for a phonorecord, copy of a computer program or computer program documentation or packaging, or copy of a motion picture or other audiovisual work (as defined in section 2318 of title 18);

(B) a phonorecord or copy in violation of section 2319 of title 18;

(C) a fixation of a sound recording or music video of a live musical performance in violation of section 2319A of title 18; or

(D) any good bearing a counterfeit mark (as defined in section 2320 of title 18).

(b) PROHIBITIONS.—A person may not—

(1) transport contraband in an aircraft, vehicle, or vessel;

(2) conceal or possess contraband on an aircraft, vehicle, or vessel; or

(3) use an aircraft, vehicle, or vessel to facilitate the transportation, concealment, receipt, possession, purchase, sale, exchange, or giving away of contraband.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1353; Pub. L. 104–153, §13, July 2, 1996, 110 Stat. 1389.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80302(a)(1) ..	49 App.:781(b)(1).	Aug. 9, 1939, ch. 618, §1(b)(1), 53 Stat. 1291; restated Aug. 9, 1950, ch. 655, 64 Stat. 427.
	49 App.:787(d).	Aug. 9, 1939, ch. 618, §7(d), 53 Stat. 1293; restated Oct. 27, 1970, Pub. L. 91–513, §1102(r), 84 Stat. 1294.
80302(a)(2) ..	49 App.:781(b)(2).	Aug. 9, 1939, ch. 618, §1(b)(2), (3), 53 Stat. 1291; Nov. 2, 1978, Pub. L. 95–575, §3(a)(1), (2), 92 Stat. 2465.
	49 App.:787(e).	Aug. 9, 1939, ch. 618, §7(e), 53 Stat. 1293; Nov. 2, 1978, Pub. L. 95–575, §3(b)(1), 92 Stat. 2465.
80302(a)(3) ..	49 App.:781(b)(3) (words before 1st semicolon).	
	49 App.:787(f).	Aug. 9, 1939, ch. 618, §7(f), 53 Stat. 1293; restated Oct. 31, 1951, ch. 655, §55(b), 65 Stat. 729; Nov. 2, 1978, Pub. L. 95–575, §3(b)(2), 92 Stat. 2465.
80302(a)(4) ..	49 App.:781(b)(3) (words after 1st semicolon).	
80302(a)(5) ..	49 App.:781(b)(4).	Aug. 9, 1939, ch. 618, 53 Stat. 1291, §§1(b)(4), 7(g); added Nov. 2, 1978, Pub. L. 95–575, §3(a)(3), (b)(3), 92 Stat. 2465.
	49 App.:787(g).	
80302(b)	49 App.:781(a).	Aug. 9, 1939, ch. 618, §1(a), 53 Stat. 1291.

In subsection (a)(1)(A) and (B), the words ''dealing therewith'' are omitted as surplus.

In subsection (a)(1)(A), the words ''has been or'' are omitted as surplus.

In subsection (a)(1)(C), before subclause (i), the word ''transported'' is substituted for ''carried or transported'' to eliminate unnecessary words. In subclause (ii), the words ''the Canal Zone'' are omitted because of the Panama Canal Treaty of 1977. The words ''a place in'' are added for consistency in the revised title.

In subsection (a)(2), the words ''involved in a violation'' are substituted for ''with respect to which there has been committed any violation'' to eliminate unnecessary words. The text of 49 App.:787(e) is omitted as unnecessary because of the restatement. The National Firearms Act referred to in the source provisions has been repealed and replaced by chapter 53 of the Internal Revenue Code of 1986 (26 U.S.C. 5801 et seq.).

In subsection (a)(3), before subclause (A), the words ''falsely made'' are omitted as being included in ''counterfeit''. In subclause (B), the words ''coin, obligation, or other security'' are added for clarity.

In subsection (a)(4), the words ''equipment used'' are substituted for ''apparatus, or paraphernalia fitted . . . which shall have been used'' to eliminate unnecessary words. The words ''coin, obligation, or other security referred to in clause (3) of this subsection'' are substituted for ''such falsely made, forged, altered, or counterfeit coin or obligation or other security'' because of the restatement.

In subsection (a)(5), the text of 49 App.:787(g) is omitted as unnecessary because the term ''cigarettes'' does not appear in 49 App.: ch. 11 and because the definition of ''contraband cigarettes'' referred to is part of 18:ch. 114.

In subsection (b), before clause (1), the words ''A person may not'' are substituted for ''It shall be unlawful'' for consistency in the revised title. In clause (1), the word ''transport'' is substituted for ''transport, carry, or convey'' because it is inclusive. In clause (2), the words ''or upon the person of anyone in or upon any vessel, vehicle, or aircraft'' are omitted as unnecessary. In clause (3), the word ''transportation'' is substituted for ''transportation, carriage, conveyance'' for consistency in this section. The word ''barter'' is omitted as being included in ''exchange''.

AMENDMENTS

1996—Subsec. (a)(6). Pub. L. 104–153 added par. (6).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 80303 of this title; title 19 section 1595a.

§ 80303. Seizure and forfeiture

The Secretary of the Treasury or the Governor of Guam or of the Northern Mariana Islands as provided in section 80304 of this title, or a person authorized by another law to enforce section 80302 of this title, shall seize an aircraft, vehicle, or vessel involved in a violation of section 80302 and place it in the custody of a person designated by the Secretary or appropriate Governor, as the case may be. The seized aircraft, vehicle, or vessel shall be forfeited, except when the owner establishes that a person except the owner committed the violation when the aircraft, vehicle, or vessel was in the possession of a person who got possession by violating a criminal law of the United States or a State. However, an aircraft, vehicle, or vessel used by a common carrier to provide transportation for compensation may be forfeited only when—

(1) the owner, conductor, driver, pilot, or other individual in charge of the aircraft or vehicle (except a rail car or engine) consents to, or knows of, the alleged violation when the violation occurs;

(2) the owner of the rail car or engine consents to, or knows of, the alleged violation when the violation occurs; or

(3) the master or owner of the vessel consents to, or knows of, the alleged violation when the violation occurs.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1354.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80303	49 App.:782.	Aug. 9, 1939, ch. 618, §2, 53 Stat. 1291; Nov. 18, 1988, Pub. L. 100–690, §6076(a), 102 Stat. 4324.
	49 App.:783 (last sentence).	Aug. 9, 1939, ch. 318, §3 (last sentence), 53 Stat. 1292.

In this section, before clause (1), the words ''The Secretary of the Treasury . . . shall seize'' are substituted for ''shall be seized'' in 49 App.:782 and ''It shall be the duty of any officer, agent, or other person so authorized or designated . . . whenever he shall discover any vessel, vehicle, or aircraft'' in 49 App.:783 (last sentence) to eliminate unnecessary words and for consistency in the revised title. The words ''the Governor of Guam or of the Northern Mariana Islands as provided in section 80304 of this title'' are added because under

49 App.:789 the Governor of Guam enforces 49 App.:ch. 11 in Guam and because, under section 502(a)(2) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as enacted by the Act of March 24, 1976 (Public Law 94–241, 90 Stat. 263), and proclaimed to be in effect by the President on January 9, 1978 (Proc. No. 4534, Oct. 24, 1977, 42 F.R. 56593, 48 U.S.C. 1681 (note)), the Commonwealth was given the same authority as Guam when a law applies to Guam and the States of the United States generally. The words ''or a person authorized by another law to enforce section 80302 of this title'' are substituted for ''or authorized by law'' for clarity. The words ''involved in a violation of section 80302'' are substituted for ''which has been or is being used in violation of any provision of section 781 of this Appendix, or in, upon, or by means of which any violation of said section has taken or is taking place'' in 49 App.:782 and ''which has been or is being used in violation of any of the provisions of this chapter, or in, upon, or by means of which any violation of this chapter has taken or is taking place'' in 49 App.:783 (last sentence) to eliminate unnecessary words. The word ''designated'' is substituted for ''authorized or designated'' in 49 App.:783 (last sentence) to eliminate unnecessary words. The words ''or appropriate Governor, as the case may be'' are added for clarity and for consistency in this section. The words ''to await disposition pursuant to the provisions of this chapter and any regulations issued hereunder'' are omitted as unnecessary. The words ''except when . . . committed the violation'' are substituted for ''*Provided further*, That no vessel, vehicle, or aircraft shall be forfeited under the provisions of this chapter by reason of any act or omission . . . committed or omitted'' in 49 App.:782 for clarity. The words ''However . . . used by a common carrier to provide transportation for compensation may be forfeited only when'' are substituted for ''*Provided*, That no . . . used by any person as a common carrier in the transaction of business as such common carrier shall be forfeited under the provisions of this chapter unless it shall appear that'' for clarity and consistency in the revised title. In clauses (1)–(3), the words ''knows of'' are substituted for ''privy thereto'' for clarity. The word ''violation'' is substituted for ''illegal act'' for consistency in the revised title and with other titles of the United States Code.

REFERENCES IN TEXT

The criminal laws of the United States, referred to in text, are classified generally to Title 18, Crimes and Criminal Procedure.

§ 80304. Administrative

(a) GENERAL.—Except as provided in subsections (b) and (c) of this section, the Secretary of the Treasury—

(1) may designate officers, employees, agents, or other persons to carry out this chapter; and

(2) shall prescribe regulations to carry out this chapter.

(b) IN GUAM.—The Governor of Guam—

(1) or officers of the government of Guam designated by the Governor shall carry out this chapter in Guam;

(2) may carry out laws referred to in section 80306(b) of this title with modifications the Governor decides are necessary to meet conditions in Guam; and

(3) may prescribe regulations to carry out this chapter in Guam.

(c) IN NORTHERN MARIANA ISLANDS.—The Governor of the Northern Mariana Islands—

(1) or officers of the government of the Northern Mariana Islands designated by the Governor shall carry out this chapter in the Northern Mariana Islands;

(2) may carry out laws referred to in section 80306(b) of this title with modifications the Governor decides are necessary to meet conditions in the Northern Mariana Islands; and

(3) may prescribe regulations to carry out this chapter in the Northern Mariana Islands.

(d) CUSTOMS LAWS ON SEIZURE AND FORFEITURE.—The Secretary, or the Governor of Guam or of the Northern Mariana Islands as provided in subsections (b) and (c) of this section, shall carry out the customs laws on the seizure and forfeiture of aircraft, vehicles, and vessels under this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1354.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80304(a)	49 App.:783 (1st sentence). 49 App.:788.	Aug. 9, 1939, ch. 618, §§3 (1st sentence), 4 (proviso), 8, 53 Stat. 1292, 1293.
80304(b)	49 App.:789.	Aug. 3, 1939, ch. 618, 53 Stat. 1291, § 9; added Aug. 1, 1956, ch. 852, § 22, 70 Stat. 911.
80304(c)	(no source).	
80304(d)	49 App.:784 (proviso).	

In subsection (a)(1), the words ''may designate'' are substituted for ''is empowered to authorize, or designate'' in 49 App.:783 (1st sentence) to eliminate unnecessary words. The word ''employees'' is added for clarity and consistency in the revised title and with other titles of the United States Code.

In subsections (a)(2) and (b)(3), the word ''regulations'' is substituted for ''such rules and regulations as may be necessary'' in 49 App.:788 and 789 for consistency in the revised title and with other titles of the Code and because ''rules'' and ''regulations'' are synonymous.

In subsection (b)(1), the words ''shall carry out this chapter in Guam'' are substituted for ''In Guam the enforcement and administration of this chapter shall be performed'' for consistency in the revised title.

Subsection (c) is added because, under section 502(a)(2) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as enacted by the Act of March 24, 1976 (Public Law 94–241, 90 Stat. 263), and proclaimed to be in effect by the President on January 9, 1978 (Proc. No. 4534, Oct. 24, 1977, 42 F.R. 56593, 48 U.S.C. 1681 (note)), the Commonwealth was given the same authority as Guam when a law applies to Guam and the States of the United States generally.

In subsection (d), the word ''Secretary'' is substituted for ''by such officers, agents, or other persons as may be authorized or designated for that purpose by the Secretary of the Treasury'' because of subsection (a)(1) of this section. The words ''or the Governor of Guam or of the Northern Mariana Islands as provided in subsections (b) and (c) of this section'' are added because under 49 App.:789 the Governor of Guam enforces 49 App.:ch. 11 in Guam and because of section 502(a)(2) of the Covenant referred to in the revision note for subsection (c) of this section. The words ''the customs laws'' are substituted for ''That such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels and vehicles under the customs laws'' because of the restatement and to eliminate unnecessary words.

REFERENCES IN TEXT

The customs laws, referred to in subsec. (d), are classified generally to Title 19, Customs Duties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 80303 of this title.

§ 80305. Availability of certain appropriations

Appropriations for enforcing customs, narcotics, counterfeiting, or internal revenue laws are available to carry out this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1355.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80305	49 App.:785.	Aug. 9, 1939, ch. 618, §5, 53 Stat. 1292.

The words ''which has been or shall hereafter be made'' and ''for the defraying of expenses of'' are omitted as surplus. The National Firearms Act referred to in the source provision has been repealed and replaced by chapter 53 of the Internal Revenue Code of 1986 (26 U.S.C. 5801 et seq.). A specific reference to chapter 53 is unnecessary because of the reference to the internal revenue laws.

REFERENCES IN TEXT

The customs laws, referred to in text, are classified generally to Title 19, Customs Duties.

The internal revenue laws, referred to in text, are classified generally to Title 26, Internal Revenue Code.

§ 80306. Relationship to other laws

(a) CHAPTER AS ADDITIONAL LAW.—This chapter is in addition to another law—

(1) imposing, or authorizing the compromise of, fines, penalties, or forfeitures; or

(2) providing for seizure, condemnation, or disposition of forfeited property, or the proceeds from the property.

(b) LAWS APPLICABLE TO SEIZURES AND FORFEITURES.—To the extent applicable and consistent with this chapter, the following apply to a seizure or forfeiture under this chapter:

(1) provisions of law related to the seizure, forfeiture, and condemnation of vehicles and vessels violating the customs laws.

(2) provisions of law related to the disposition of those vehicles or vessels or the proceeds from the sale of those vehicles or vessels.

(3) provisions of law related to the compromise of those forfeitures or claims related to those forfeitures.

(4) provisions of law related to the award of compensation to an informer about those forfeitures.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1355.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80306(a)	49 App.:786.	Aug. 9, 1939, ch. 618, §§4 (less proviso), 6, 53 Stat. 1292.
80306(b)	49 App.:784 (less proviso).	

In subsections (a)(1) and (b)(3), the word ''compromise'' is substituted for ''remission or mitigation'' for consistency in the revised title.

In subsection (a), before clause (1), the words ''in addition to another law'' are substituted for ''shall be construed to be supplemental to, and not to impair in any way, existing provisions of law'' to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''under this chapter'' are substituted for ''incurred, or alleged to have been incurred, under the provisions of this chapter'' to eliminate unnecessary words. In clause (1), the word ''forfeiture'' is substituted for ''summary and judicial forfeiture'' to eliminate unnecessary words.

REFERENCES IN TEXT

The customs laws, referred to in subsec. (b)(1), are classified generally to Title 19, Customs Duties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 80304 of this title.

CHAPTER 805—MISCELLANEOUS

Sec.
80501. Damage to transported property.
80502. Transportation of animals.
80503. Payments for inspection and quarantine services.
80504. Medals of honor.

§ 80501. Damage to transported property

(a) CRIMINAL PENALTY.—A person willfully damaging, or attempting to damage, property in the possession of an air carrier, motor carrier, or rail carrier and being transported in interstate or foreign commerce, shall be fined under title 18, imprisoned for not more than 10 years, or both. In a criminal proceeding under this section, a shipping document for the property is prima facie evidence of the places to which and from which the property was being transported.

(b) PROHIBITION AGAINST MULTIPLE PROSECUTIONS FOR SAME ACT.—A person may not be prosecuted for an act under this section when the person has been convicted or acquitted on the merits for the same act under the laws of a State, the District of Columbia, or a territory or possession of the United States.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1356.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80501(a)	15:1281.	Sept. 13, 1961, Pub. L. 87–221, 75 Stat. 494.
80501(b)	15:1282.	

In subsection (a), the words ''A person . . . shall be fined under title 18'' are substituted for ''It shall be unlawful for any person'' and ''Whoever violates any provision of subsection (a) of this section shall be fined not more than $5,000'' to eliminate unnecessary words and for consistency with title 18. The word ''damaging'' is substituted for ''destroy or injure'' because it is inclusive. The words ''air carrier, motor carrier, or rail carrier'' are substituted for ''common or contract carrier by railroad, motor vehicle, or aircraft'', and the words ''being transported'' are substituted for ''moving'', for consistency in the revised title. The words ''In a criminal proceeding under this section'' are substituted for ''To establish the interstate or foreign commerce character of any property involved in any prosecution under this section'' to eliminate unnecessary words. The words ''shipping document'' are substituted for ''waybill or similar shipping document'' because they are inclusive.

In subsection (b), the words ''A person may not be prosecuted for an act under this section when the per-

son has been convicted or acquitted on the merits for the same act'' are substituted for ''A judgment of conviction or acquittal on the merits . . . shall be a bar to any prosecution under this chapter for the same act or acts'' for clarity. The word ''territory'' is added for consistency in the revised title and with other titles of the United States Code. The words ''or the Commonwealth of Puerto Rico'' are omitted as unnecessary because of 48:734.

§ 80502. Transportation of animals

(a) CONFINEMENT.—(1) Except as provided in this section, a rail carrier, express carrier, or common carrier (except by air or water), a receiver, trustee, or lessee of one of those carriers, or an owner or master of a vessel transporting animals from a place in a State, the District of Columbia, or a territory or possession of the United States through or to a place in another State, the District of Columbia, or a territory or possession, may not confine animals in a vehicle or vessel for more than 28 consecutive hours without unloading the animals for feeding, water, and rest.

(2) Sheep may be confined for an additional 8 consecutive hours without being unloaded when the 28-hour period of confinement ends at night. Animals may be confined for—

(A) more than 28 hours when the animals cannot be unloaded because of accidental or unavoidable causes that could not have been anticipated or avoided when being careful; and

(B) 36 consecutive hours when the owner or person having custody of animals being transported requests, in writing and separate from a bill of lading or other rail form, that the 28-hour period be extended to 36 hours.

(3) Time spent in loading and unloading animals is not included as part of a period of confinement under this subsection.

(b) UNLOADING, FEEDING, WATERING, AND REST.—Animals being transported shall be unloaded in a humane way into pens equipped for feeding, water, and rest for at least 5 consecutive hours. The owner or person having custody of the animals shall feed and water the animals. When the animals are not fed and watered by the owner or person having custody, the rail carrier, express carrier, or common carrier (except by air or water), the receiver, trustee, or lessee of one of those carriers, or the owner or master of a vessel transporting the animals—

(1) shall feed and water the animals at the reasonable expense of the owner or person having custody, except that the owner or shipper may provide food;

(2) has a lien on the animals for providing food, care, and custody that may be collected at the destination in the same way that a transportation charge is collected; and

(3) is not liable for detaining the animals for a reasonable period to comply with subsection (a) of this section.

(c) NONAPPLICATION.—This section does not apply when animals are transported in a vehicle or vessel in which the animals have food, water, space, and an opportunity for rest.

(d) CIVIL PENALTY.—A rail carrier, express carrier, or common carrier (except by air or water), a receiver, trustee, or lessee of one of those carriers, or an owner or master of a vessel that knowingly and willfully violates this section is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation. On learning of a violation, the Attorney General shall bring a civil action to collect the penalty in the district court of the United States for the judicial district in which the violation occurred or the defendant resides or does business.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1356.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80502(a)	45:71 (less 1st sentence 132d–153d words).	June 29, 1906, ch. 3594, §§1–4, 34 Stat. 607.
80502(b)	45:71 (1st sentence 132d–153d words). 45:72.	
80502(c)	45:73 (proviso).	
80502(d)	45:73 (less proviso). 45:74.	

In this section, the words ''rail carrier, express carrier'' are substituted for ''railroad, express company, car company'' for consistency in the revised title. The word ''air'' is included in the exception because when the source provision was enacted air carriers did not exist. The words ''a vehicle or vessel'' are substituted for ''cars, boats, or vessels of any description'', and the word ''vessel'' is substituted for ''steam, sailing, or other vessels'', for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(1), the words ''transporting animals'' are substituted for ''whose road forms any part of a line of road over which cattle, sheep, swine, or other animals shall be conveyed'' and ''carrying or transporting cattle, sheep, swine, or other animals'' to eliminate unnecessary words. The word ''possession'' is added for consistency in the revised title and with other titles of the Code. The words ''for feeding, water, and rest'' are added because of the restatement.

In subsection (a)(2), before clause (A), the words ''Sheep may be confined for an additional 8 consecutive hours without being unloaded when the 28-hour period of confinement ends at night'' are substituted for 45:71 (last proviso) for clarity. The words ''Animals may be confined for'' are added because of the restatement. In clause (A), the words ''more than 28 hours when the animals cannot be unloaded because of'' are substituted for ''unless prevented by'' because of the restatement. The word ''storm'' is omitted as being included in ''accidental or unavoidable causes''. The words ''when being careful'' are substituted for ''by the exercise of due diligence and foresight'' to eliminate unnecessary words. In clause (B), the words ''36 consecutive hours when'' are substituted for ''*Provided*, That . . . the time of confinement may be extended to thirty-six hours'' because of the restatement. The word ''printed'' is omitted as surplus.

In subsection (a)(3), the words ''but the time during which the animals have been confined without such rest or food or water on connecting roads shall be included, it being the intent of this chapter to prohibit their continuous confinement beyond the period of twenty-eight hours, except upon the contingencies hereinbefore stated'' are omitted as unnecessary because of the restatement.

In subsection (b), before clause (1), the word ''properly'' is omitted as surplus. The words ''Animals being transported shall be unloaded'' are added because of the restatement. In clause (1), the words ''except that the owner or shipper may provide food'' are substituted for ''but nothing in this section shall be construed to prevent the owner or shipper of animals from furnishing food therefor, if he so desires'' for clarity.

In subsection (c), the word ''proper'' is omitted as surplus.

In subsection (d), the words ''liable to the United States Government for a civil penalty'' are substituted for ''liable for and forfeit and pay a penalty'' in 45:73 for consistency in the revised title and with other titles of the Code. The words ''On learning of a violation, the Attorney General shall bring a civil action to collect the penalty'' are substituted for ''The penalty created by section 73 of this title shall be recovered by civil action in the name of the United States'' in 45:74 and ''and it shall be the duty of United States attorneys to prosecute all violations of this chapter reported by the Secretary of Agriculture, or which come to their notice or knowledge by other means'' to eliminate unnecessary words and because of 28:509. The words ''in the district court of the United States for the judicial district'' are substituted for ''in the circuit or district court holden within the district'' in section 4 of the Act of June 29, 1906 (ch. 3594, 34 Stat. 608), because of section 291 of the Act of March 3, 1911 (ch. 231, 36 Stat. 1167), and for consistency in the revised title and with other titles of the Code.

§ 80503. Payments for inspection and quarantine services

(a) GENERAL.—(1) In this subsection—

(A) ''private aircraft'' means a civilian aircraft not being used to transport passengers or property for compensation.

(B) ''private vessel'' means a civilian vessel not being used—

(i) to transport passengers or property for compensation; or

(ii) in fishing or fish processing operations.

(2) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451), the owner, operator, or agent of a private aircraft or private vessel may pay not more than $25 for the services of an officer or employee of the Department of Agriculture, the Customs Service, the Immigration and Naturalization Service, or the Public Health Service (including an independent contractor performing an inspection service for the Public Health Service) when the services are performed on a Sunday, holiday, or from 5 p.m. through 8 a.m. on a weekday, and are related to the aircraft's or vessel's arrival in, or departure from, the United States. However, the owner, operator, or agent does not have to pay for the services from 5 p.m. through 8 a.m. on a weekday when an officer or employee on regular duty is available at the place of arrival or departure to perform services.

(3) The head of a department, agency, or instrumentality of the United States Government providing services under paragraph (2) of this subsection shall collect the amount paid for the services and deposit the amount in the Treasury. The amount shall be credited to the appropriation of the department, agency, or instrumentality against which the expense of those services was charged.

(b) LIMITATIONS ON REIMBURSEMENT.—(1) An owner or operator of an aircraft is required to reimburse the head of a department, agency, or instrumentality of the Government for the expenses of performing an inspection or quarantine service related to the aircraft at a place of inspection during regular service hours on a Sunday or holiday only to the same extent that an owner or operator makes reimbursement for the service during regular service hours on a weekday. The head of the department, agency, or instrumentality may not assess an owner or operator of an aircraft for administrative overhead expenses for inspection or quarantine service provided by the department, agency, or instrumentality at an entry airport.

(2) This subsection does not require reimbursement for costs incurred by the Secretary of the Treasury in providing customs services described in section 13031(e)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(1)).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1357.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80503(a)(1) ..	49 App.:1741(d).	May 21, 1970, Pub. L. 91–258, § 53(a)–(d), 84 Stat. 236.
80503(a)(2) ..	49 App.:1741(a), (b).	
80503(a)(3) ..	49 App.:1741(c).	
80503(b)	49 App.:1741(e).	May 21, 1970, Pub. L. 91–258, 84 Stat. 219, § 53(e); added Oct. 22, 1986, Pub. L. 99–514, § 1893(f), 100 Stat. 2930.

In subsection (a)(1), the word ''passengers'' is substituted for ''persons'' for consistency in the revised title and with other titles of the United States Code. The word ''hire'' is omitted as being included in ''compensation''. In clause (B)(ii), the words ''fishing or fish processing operations'' are substituted for ''fishing operations or in processing of fish or fish products'' to eliminate unnecessary words.

In subsection (a)(2), the words ''or any other provisions of law'' are omitted as unnecessary. The words ''on or after July 1, 1970'' are omitted as executed. The words ''upon the request of such owner, operator, or agent'' are omitted as unnecessary. The words ''from 5 p.m. through 8 a.m.'' are substituted for ''at any time after 5 o'clock postmeridian or before 8 o'clock antemeridian'' to eliminate unnecessary words. The words ''Notwithstanding any other provision of law'' are omitted as unnecessary because of the restatement. The words ''the owner, operator, or agent does not have to pay'' are substituted for ''no payment shall be required'' for clarity. The words ''from 5 p.m. through 8 a.m.'' after ''the services'' are added for clarity. The words ''an officer or employee on regular duty'' are substituted for ''an officer or employee stationed on his regular tour of duty'' to eliminate unnecessary words.

In subsection (b)(1), the words ''related to the aircraft'' are substituted for ''as a consequence of the operation of aircraft'', and the words ''a place of inspection'' are substituted for ''at airports of entry or other places of inspection'', to eliminate unnecessary words. The words ''The head of the department, agency, or instrumentality may not assess'' are substituted for ''shall not be assessed against'' because of the restatement. The word ''expenses'' is substituted for ''costs'' for consistency in this section.

§ 80504. Medals of honor

(a) MEDALS.—The President may prepare and give a bronze medal of honor with emblematic devices to an individual who by extreme daring endangers that individual's life in trying to prevent, or save the life of another in, a grave accident in the United States involving a rail carrier providing transportation in interstate commerce or involving a motor vehicle on the public streets, roads, or highways. The President may give a medal only when sufficient evidence that the individual deserves the medal has been filed under regulations prescribed by the President.

(b) RIBBONS, KNOTS, AND ROSETTES.—The President may give an individual who receives a

medal a ribbon to be worn with the medal and a knot or rosette to be worn in place of the medal. The President shall prescribe the design for the ribbon, knot, and rosette. If the ribbon is lost, destroyed, or made unfit for use and the individual receiving the medal is not negligent, the President shall issue a new ribbon without charge to the individual.

(c) AVAILABILITY OF APPROPRIATIONS.—Appropriations made to the Secretary of Transportation are available to carry out this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1358.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
80504(a)	49 App.:1201.	Feb. 23, 1905, ch. 744, §1, 33 Stat. 743; June 13, 1957, Pub. L. 85–50, §1(1), 71 Stat. 69.
80504(b)	49 App.:1202.	Feb. 23, 1905, ch. 744, §2, 33 Stat. 743.
80504(c)	49 App.:1203.	Feb. 23, 1905, ch. 744, §3, 33 Stat. 743; restated June 13, 1957, Pub. L. 85–50, §1(2), 71 Stat. 69.
	49 App.:1655(e)(3).	Oct. 15, 1966, Pub. L. 89–670, §6(e)(3), 80 Stat. 939.

In subsection (a), the words ''may prepare and give'' are substituted for ''is authorized to cause to be prepared . . . which shall be bestowed'' for clarity. The word ''suitable'' is omitted as surplus. The word ''individual'' is substituted for ''persons'' because it is more precise. The words ''trying to prevent, or save the life of another in'' are substituted for ''in saving, or endeavoring to save, lives . . . or in preventing or endeavoring to prevent'' to eliminate unnecessary words. The words ''grave accident'' are substituted for ''wreck, disaster, or grave accident'' because they are inclusive. The words ''rail carrier providing transportation in interstate commerce'' are substituted for ''railroad . . . engaged in interstate commerce'' for consistency in the revised title. The words ''The President may give a medal only when'' are substituted for ''*Provided*, That no award of said medal shall be made to any person until'' for clarity. The word ''filed'' is substituted for ''furnished and placed on file'' to eliminate unnecessary words.

In subsection (b), the words ''and the individual receiving the medal is not negligent'' are substituted for ''without fault or neglect on the part of the person to whom it was issued'' to eliminate unnecessary words. The words ''the President shall issue'' are substituted for ''shall be issued'' for clarity.

In subsection (c), the words ''to the Secretary of Transportation'' are substituted for ''for the Department of Transportation'' because of 49:102(b).